Electronic Distribution of Judgments

Robert T. Franson and Susan J. Lyons

November 15, 1990

Canadian Legal Information Centre

92-03357/

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© 1990
ISBN 0921481-25-X

Canadian Legal Information Centre
February 1991

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Executive Summary

Access to law is a critical value in our legal system. Courts decide thousands of cases each year, and making the reasons for judgment available by traditional methods is costly and involves a significant administrative burden for the courts. The purpose of our study is to examine whether some means of electronic distribution of judgments by the courts could provide more effective access to judgments.

It is important to recognize that, while judgment distribution is the focus of our study, it takes place within a complex process that begins when a case is started, proceeds through the release of a formal judgment by the court, and ends when that judgment is found and used by someone doing legal research, and perhaps presented to and cited by a court. The distribution phase is linked closely with the other phases, and cannot be considered in isolation. An effective strategy for dealing with the paper burden can only be designed when one appreciates the source and extent of all of the paper-work and considers each step within the context of the whole system.

It is necessary to distinguish clearly between two closely related phases within the judgment process: distribution (the process by which the courts send judgments either to consumers directly or to intermediaries such as publishers, database operators, and libraries) and dissemination (the process by which intermediaries make judgments available to a wider audience). We attempt in our analysis to maintain the conceptual distinction between the two processes while recognizing their interrelationship.

In our report we identify and discuss six phases in the judgment process: commencing the case, hearing the case, writing the judgment, printing and collecting the judgment, distributing the judgment from the court, and disseminating the judgment more broadly. We find that each phase relies heavily on paper, and has been little affected by computer technology.

One of the most significant agents for disseminating judgments is the electronic databases, and they are the only part of the judgment system that is not heavily paper-based. There are three primary database operators in Canada: QL Systems, CAN/LAW, and SOQUIJ. Each provides a variety of on-line services including full-text databases, case reports, and digests. Not only do they provide quick and effective judgment distribution, but they are also useful for legal research and may help deal with the proliferation of paper caused by the duplication in case reports.

Turning to the consumer's perspective, we note that consumers want several types of access to judgments: current awareness (i.e., knowledge about developments in the law), access to the full text of judgments, and research (ranging from straightforward location of a particular case to more complex legal research

needs). Consumers often tend to be critical of "the system". When we analyzed this criticism, we found that consumers naturally tend to focus on the judgment system as a whole, and its perceived inadequacy in meeting their legal research needs. For the purposes of our analysis, we must attempt to separate the distribution process from the dissemination process. For example, the on-line databases may suffer from certain inadequacies as legal research tools; however, they are effective in enhancing the distribution process by providing a much higher degree of access than could ever be provided by the courts. We also found that consumers' perceptions about the distribution system (particularly the electronic databases) often did not match up with reality. There is a serious lack of knowledge about the services available.

In order to evaluate a system, one must have a clear idea what that system is supposed to accomplish. The courts seem to agree that, with respect to distribution, their primary responsibility is to provide the parties (or their counsel) with copies of their judgment. They also feel that there is some obligation to provide public access to judgments. For the most part, the latter obligation is met by providing copies to intermediaries, like law book publishers and database operators, who in turn disseminate the judgments more widely. In addition, courts maintain distribution lists consisting of between 50 and 150 names, consisting primarily of judges, government lawyers, courthouse and law school libraries, and a few law firms. All courts also provide individual copies of judgments on request through the registry, the library, or both. In general, the distribution process has evolved on a day-to-day basis in each jurisdiction or even each courthouse, and has not been the subject of a coordinated decision-making process. In most cases, the courts have not established a policy regarding their perceived obligation to distribute judgments and the manner in which they will meet that obligation.

In our opinion, the current judgment system suffers considerably from a failure to take advantage of computer technology. This is apparent at all stages. The distribution process itself, when combined with the function performed by the database operators in dissemination, is one of the high points. For the courts, the paper burden is not particularly high compared to the burden at other stages in the process - or at least it would not be if it were handled efficiently. For the consumer who has a computer, the distribution system is highly effective in terms of accessibility, timeliness, and comprehensiveness. We do point out a few areas of weakness but, in general, the system of judgment distribution and dissemination has become dramatically more timely, comprehensive, and cost-effective due to computer technology. However, this system works well for only some consumers. The consumer who does not have access to a computer is in essentially the same position as all consumers were ten years ago. Access to unreported judgments is highly problematic; access to reported judgments depends on access to and familiarity with law libraries.

It has been suggested that paper might simply be eliminated. Our research shows that all participants in the system currently want to have paper copies. In some

cases a printout of an electronic version will do; in other cases only a copy identical to the document signed by the judge will suffice. The reasons for wanting paper copy include: necessity, habit and convenience, accuracy and consumer confidence, publishing considerations, record-keeping, verification, and citation. Some of the reasons are simply due to habit and some relate to the consumers' level of computer literacy - matters that will change with time. Others are more significant, and may tend to ensure that, while the number of paper copies in use may decrease significantly, there will always be some need for paper copies. Perhaps the most important of these is that there will always be some judgment consumers (e.g., the parties in some cases) who will not be able to use electronic copies. Therefore, to some extent, parallel distribution systems must exist.

In this report we examine the techniques available to a court that is interested in pursuing electronic distribution. From simplest to most complex, these are: providing judgments on computer disks, direct transmission over a telecommunications network, providing on-line access through a bulletin board or database, and transmitting judgments to an intermediary who in turn makes them available to consumers. Going from the simpler to the more complex, the costs for equipment, software, and administration increase considerably. Security issues enter in, as do policy issues. No court is in a position to consider any of these alternatives until it has first developed an efficient automated system for judgment production.

Our report is aimed at decision-makers in the Canadian court system. Our most important recommendation is that:

1 *Each court develop its own strategic plan for the introduction of technology, in cooperation with governments and other courts.*

Any specific steps taken to improve the judgment process through the introduction of technology must be taken within the context of an overall strategic plan. A strategic plan establishes the strategies that will be followed when selecting and implementing technological projects, such that practical and policy goals are met in an efficient and cost-effective manner that minimizes the risks involved.

We cannot tell each court what specific steps it should take, but we do make suggestions as to matters that should be considered when developing the strategic plan. These relate not only to judgment distribution but to the other phases of the judgment process.

We recommend that:

2 *Courts include the electronic distribution of judgments in their strategic plans as one of the possible technology-oriented projects for evaluation.*

3 *Disks be made available to database operators and other publishers, and that the feasibility and cost-effectiveness of other electronic methods of judgment distribution be evaluated with regard to database operators, publishers, and other judgment consumers.*

4 *Judges who wish to use computers to write their judgments be provided with adequate computers and software, and ongoing training and support in their use.*

5 *Judges' secretaries use computers to produce judgments that are in machine-readable form, and that secretaries be provided with ongoing training and support.*

6 *Compatible equipment and software be used throughout each province's court system.*

7 *Standards be developed for the formatting of judgments within a province, so that the judgments can be processed for computer databases more efficiently.*

8 *Paragraph numbering be included in all written and transcribed oral judgments.*

9 *Some authoritative body (e.g., the Canadian Judicial Council) issue a statement supporting the acceptance by the courts of computer printouts of reasons for judgment and recommending a proper citation style for electronic versions.*

10 *Consideration be given to the appropriateness of linking electronically the judges' computers, their secretaries' computers, the printing facility, the registries, or any combination of these, in a courthouse or province.*

11 *Consideration be given to installing centralized printing facilities in a courthouse or province that are capable of collating, stapling, and addressing judgments automatically and of handling the volume the courts generate.*

12 *Consideration be given to developing a means of producing and designating official electronic versions of judgments.*

13 *Policy guidelines be set as to who is entitled to be on the distribution list and who is entitled to free copies of judgments, and that distribution lists be reviewed regularly to ensure that they do not contain people and agencies that do not fit within the guidelines.*

14 *Consideration be given to charging all subscribers, including those internal to the courts and government, the full cost (direct and indirect) of distributing paper copies of the judgments.*

15 *Consideration be given to developing some sort of current awareness service and making it available to judgment consumers for a fee.*

16 *The procedures by which judgments are forwarded to QL and other recipients be reviewed to determine whether it is possible to get the judgments out more quickly and reliably.*

17 *Consideration be given to establishing an office with responsibility for judgment distribution.*

18 *Consideration be given to developing case locating or tracking tools that can be made available to intermediaries and the general public.*

19 *Consideration be given to providing public access to the court's information regarding status of cases and judgments, possibly through the vehicle of a public information office.*

20 *Electronic versions of judgments be officially archived.*

21 *Consideration be given to making historical collections of electronic versions of judgments available on some basis.*

The need for strategic planning is true not only at the local level, but as much or more so at the national level as well. It would be tragic if the approaches taken in different jurisdictions precluded the development of national legal information systems. As each court begins to develop its own strategic plan, it should keep in touch with and cooperate with the other courts across the country, in order to give Canada legal information systems that are useful and compatible.

Contents

I. Background and Purpose of the Study 10
- A. Focus of the Study 10
- B. Background 10
- C. Purposes 11
- D. Scope of the Study 11

II. Methodology 12

III. Description of The Existing System 12
- A. Seeing Judgment Distribution in Context 12
- B. Steps in the Process 13
  - 1. Commencing the Case 13
  - 2. Hearing the Case 13
  - 3. Writing the Judgment 14
  - 4. Printing and Collecting the Judgment 14
  - 5. Distributing the Judgment from the Court 14
  - 6. Disseminating the Judgment More Broadly 15
    - a. The Press 15
    - b. Libraries 16
    - c. Databases 16
    - d. Case Reports and Digests 16
- C. The Consumer's Perspective 16
  - 1. Current Awareness 17
  - 2. Access to Judgments 17
  - 3. Research 17
- D. Electronic Databases 18
  - 1. QL Systems 18
  - 2. CAN/LAW 19
  - 3. SOQUIJ 21
  - 4. Specialized Databases 22
- E. The Special Situation in Quebec 22
  - 1. The Current System 22
  - 2. The Proposed System 22

IV. Factors to Consider 23
- A. Perceptions v. Reality 23
- B. The Importance of Context 23
- C. The Goals of the System 24
- D. The Issue of Duplication 26

V. Evaluation of the Current Distribution System 27
A. In General 27
B. From the Consumer's Perspective 29
1. The Consumer Who Does Not Have Access to a Computer 30
2. The Consumer Who Has Access to a Computer 30
C. From The Courts' Perspective 31
D. The Importance of Paper Copy 32
1. Reasons for Wanting Paper Copy 33
a. Necessity 33
b. Habit, Comfort, and Convenience 33
c. Accuracy and Consumer Confidence 34
d. Publishing Considerations 34
e. Record-keeping 34
f. Verification 35
g. Citation 35
h. Cost 35
2. Can Paper Ever be Eliminated? 36

VI. The Techniques of Electronic Distribution 37
A. General Considerations 37
B. Techniques Available 38
1. Providing Disk Copies 38
2. Direct Transmission 38
3. Maintaining an On-line Information System 39
a. Operating a Computer Bulletin Board 39
b. Operating a Judgment Database 40
4. The Clearing-house Option 41
C. Cost Considerations 42

VII. Conclusions and Recommendations 43
A. General 43
B. The Need for Strategic Planning 43
C. Recommendations with Respect to Electronic Distribution of Judgments 46
D. Some Specific Suggestions 48
1. Writing, Printing, and Collecting Judgments 48
2. Rationalizing the Distribution List 51
3. Fine-tuning the Collection and Distribution Process . .52
4. Case Location Tools 53
5. Archiving Electronic Copies 54
E. Summary 56

VIII. Appendices 59
A. People Contacted 59
B. Experiments with the Transfer of Judgments in Electronic Form 62
1. Federal Court of Canada 62
2. Alberta 63
3. British Columbia 63
4. New Brunswick 63
5. Newfoundland 63
6. Nova Scotia 63
7. Prince Edward Island 63
8. Quebec 64
9. Saskatchewan 64

I. BACKGROUND AND PURPOSE OF THE STUDY

A. Focus of the Study

Access to law is a critical value in our legal system; however, courts decide thousands of cases each year, and making the reasons for judgment available by traditional methods is costly and involves a significant administrative burden for the courts.

This study examines whether some means of electronic distribution of judgments by the courts could provide more effective access to judgments.

B. Background

Our courts seem to be suffering under the paper burden. Court administrators complain that distribution lists for court judgments tend to grow uncontrollably; judges complain that, in order to keep up to date and locate significant judgments, they have to face an overwhelming blizzard of paper.

A number of participants in the judgment distribution system have suggested that judgments should be transferred in electronic form, either on disk or by electronic transmission, to some or all of the persons who currently get paper copies of judgments from the courts. They argue that electronic distribution could have a number of benefits. By doing away with the need to re-key decisions or to use optical scanners, it is hoped that a major source of errors will be eliminated, that decisions can be distributed more quickly and more cheaply, and that all consumers of judgments (including the public) will have easier and less expensive access to them. It is also hoped that significant burdens will be removed from the courts - that they will no longer have to store and distribute paper copies of judgments.

In 1984 the Canadian Law Information Council published a report titled *Communicating Court Information: Towards a Canadian Court Records Handling System.* The author, L.K. Rees-Potter, reviewed the manner in which court records were handled and made a number of recommendations. Judgment distribution was one of the areas she dealt with. In general, she recommended that:

> A major effort should be undertaken in courts and in departments responsible for court administration to introduce new technology to process, compose, store and distribute court records information.

And, more specifically:

> Judgments should be available for distribution in print and electronic form.

In general, the Canadian courts have done very little in these areas since that report was written.

More recently, a national forum was held focussing on the idea of distributing judgments electronically. A great many views were presented. The proceedings were published by the Canadian Law Information Council under the title *Access: Proceedings of the CLIC Forum on Electronic Distribution of Judgments* (1987). The forum proceedings were the starting point for the current study.

C. Purposes

This report is aimed at decision-makers in the Canadian court system. Decision-makers cannot ignore the impact of technology on the courts. The impact on judgment distribution is one of the aspects they must consider, and it must be considered within the context of the whole judgment process: writing, printing, collection, distribution, dissemination, current awareness, case location, and legal research.

The purposes of our study are:

(1) to update and supplement the previously available information and opinions on electronic distribution of judgments;

(2) to analyze the information collected;

(3) to describe the current methods of distributing judgments;

(4) to examine the alternatives available for the cost-effective distribution of judgments; and

(5) to emphasize the need for each jurisdiction to develop a strategic plan for the introduction of technology into the court system, and to identify some of the factors that should be taken into consideration in developing such a plan.

We cannot map out a course of action for any court system. Each court must collect its own data and address its own practical and policy considerations before deciding on a strategic plan. We can only provide a context for the development of such a plan, point out some of the issues, and make some suggestions as to actions to consider.

D. Scope of the Study

In this report, we will describe and discuss the current distribution system, evaluate its effectiveness, discuss the techniques of electronic distribution, then provide some general recommendations and specific suggestions.

The distribution of judgments takes place within a complex process that begins when a case is started, proceeds through the release of a formal judgment by the court, and ends when that judgment is found and used by someone doing legal research, and perhaps presented to and cited by a court.

This study is limited in scope to the part of the process that involves distribution of judgments by the courts to publishers, database operators, the press, and individuals who request them. We will discuss aspects of the process, particularly the further dissemination of judgments by intermediaries, as they are relevant to distribution.

II. METHODOLOGY

In light of the work that had already been done, it did not seem warranted to conduct an extensive study including empirical data. Instead we decided to start by talking with the key individuals who participated in the 1987 Forum on the assumption that these were the people in the best position to know what had happened in the interim. We also identified others who were knowledgeable about the distribution of judgments.

During the spring and summer of 1989 we interviewed many of the participants in the Forum as well as a number of other people. A list of people interviewed is set out in Appendix A (see page 59).

A draft of our report was produced for circulation to people who had been interviewed and to other interested parties for comment. As well, a discussion paper was presented and discussed at an open forum held in conjunction with the annual meeting of the Canadian Legal Information Centre in June, 1990. The comments that were received and the points that were made during the discussion have been taken into account in the preparation of this report.

III. DESCRIPTION OF THE EXISTING SYSTEM

A. Seeing Judgment Distribution in Context

Before designing an effective strategy for improving judgment distribution, it is necessary to have a clear picture of the whole process of writing, printing, distribution, and dissemination of judgments. The distribution phase is only one small step in the process. It is linked closely to the other phases and cannot be considered in isolation. The paper burden that court administrators and judges complain about starts long before a judgment is written, and the distribution of judgments is a minor part of the total paperwork of the courts. An effective strategy for reducing the blizzard can only be designed when one appreciates the source and extent of all of the paperwork and considers each step within the context of the whole system.

Another matter that may obscure a clear examination of the electronic distribution of judgments is the tendency of many people to confuse or combine two separate steps - distribution and dissemination. In this report, "distribution" refers to the distribution of judgments by the court, either to consumers directly or to intermediaries such as libraries, publishers, and database operators. "Dissemination" refers to the further dissemination of judgments by intermediaries. The dissemination phase involves a consideration not only of intermediaries but also of consumers; for example, are judgments accessible, is the access meaningful, what kinds of access are required (e.g., identification and location of particular judgments, legal research, current awareness)? Distribution and dissemination are inextricably linked. We attempt in our analysis to maintain the conceptual distinction between the two processes while recognizing their interrelationship.

B. Steps in the Process

We identified six phases in the overall process within which judgment distribution is located:

(1) Commencing the case.

(2) Hearing the case.

(3) Writing the judgment.

(4) Printing and collecting the judgment.

(5) Distributing the judgment from the court.

(6) Disseminating the judgment more broadly.

These phases are not discrete - instead they tend to overlap.

1. Commencing the Case

A case is commenced by specified formal procedures, the precise nature of which varies. Paper begins to accumulate in the files at this point even though only a small percentage of civil cases reaches the hearing stage.

2. Hearing the Case

The lawyers certify that the case is ready for trial, and a date is set. Frequently, the whole process is handled by manual methods. Dates are entered, schedules are typed, and judges are assigned. Schedules are revised and reissued as changes are made. Scheduling and tracking of the case through the system are accomplished by manual methods or very rudimentary computer systems. The case that goes to

trial generates more paper, in the form of submissions from counsel, a transcript, and sometimes a written decision.

3. Writing the Judgment

Reserved judgments are usually written by judges during evenings or on days when they are not sitting. Typically, judgments are prepared by judges and their secretaries using a wide variety of equipment. Often the judge will draft the judgment or an outline longhand, then dictate it; the secretary will prepare it on a dedicated word processor or a computer. A few judges are beginning to write judgments on computer. Many of them have had to purchase the computers themselves, and the computers are sometimes not compatible with the word-processing systems in their courthouses. Nor is there adequate training and support for judges who want to improve their efficiency by learning about the opportunities offered by technology.

4. Printing and Collecting the Judgment

Each court has a process by which a judgment is finished, printed, signed by the judge, and collected for distribution to the parties and to anyone else who should receive a copy. Increasingly, computing equipment of some kind is being used in that process, but in many cases the process has not been automated to a significant extent. Even where there is some degree of automation, standardization of hardware and software is rare.

5. Distributing the Judgment from the Court

After sufficient copies of the judgment are prepared, the distribution phase begins. There are three main types of processes used by the courts to distribute judgments:

(1) The lawyers and, for unrepresented parties, the parties themselves will always be given copies. The courts view this as a primary responsibility.

(2) There is usually some sort of formal or informal distribution list used for all judgments. The list is responsible for distribution of the majority of the copies. The typical distribution list includes people internal to the court system and government (e.g., judges and government lawyers) and intermediaries who will further disseminate the judgments (e.g., publishers, database operators, and libraries in courthouses, law schools, and a very small number of law firms). Lists generally include between 50 and 150 names. The actual distribution systems used by the courts differ.

(3) Other individuals and organizations may want copies of particular judgments (e.g., the press, public interest groups, and lawyers working on similar cases). Decisions of particular significance are in high demand and

most court systems make extra copies before release so that copies will be available when the judgment is released. In addition to that, court registries and libraries receive requests on an ongoing basis for copies of judgments from different people who want them for a variety of reasons.

With a few exceptions, the three types of distribution rely on the transfer of paper copies. Sometimes the copies are sent out by individual registrars. Other court systems have centralized distribution - i.e., copies of judgments from all courthouses come to a central location and are photocopied and distributed from there. Paper copies are distributed by mail, courier, and fax, or are picked up by the recipients; the method is usually chosen by the recipient. A distribution list allows for a large degree of standardization of the distribution procedure, but there will still be individual requests from consumers who are not on the list, and dealing with these is time-consuming.

During the past few years, a number of courts have begun to experiment with transferring judgments in electronic form to publishers and database operators - either by sending disks or by direct electronic transmission. See Appendix B (page 62) for a summary of these experiments. But even in these cases the recipients request paper copies in order to verify the electronic copy.

The costs of the paper distribution system include direct expenses (e.g., photocopying and postage) and indirect expenses (e.g., the cost of people's time, maintenance of the equipment, overhead, and so on). The costs involved with electronic transmission are discussed on page 42, Section C.

Cost-recovery practices differ widely from court to court and province to province. In most cases, distribution to judges and libraries is free. Law firms are charged a fee that may or may not cover the direct expenses of photocopying and postage. Most publishers are charged the same fee as law firms, although QL usually receives judgments free in exchange for providing judges with free searching of its Canadian Judgments database, and SOQUIJ receives judgments free as part of its arrangement with the government and the courts.

6. Disseminating the Judgment More Broadly

After the judgment leaves the door of the court numerous agencies deal with it, operating to some degree in parallel. These include the press, libraries, database operators, and publishers. They serve as intermediaries in the total system, taking judgments distributed by the courts and making them available to the final consumers.

a. The Press

The press disseminates information about cases deemed to be newsworthy. The result may be a demand for the full text of the judgment. Requests will come to

the courts, the libraries, the database operators, and publishers who offer full-text judgment services.

b. Libraries

Most courthouse and law school libraries receive copies of the judgments from the courts in their province, as well as copies of judgments from the Federal Court of Canada and the Supreme Court of Canada. Usually the librarians catalogue these in some way and file them. If users know the names of the parties it is easy enough to find the judgments; otherwise, it can be very difficult.

c. Databases

On-line systems, or databases, provide another means of disseminating judgments. There are three major on-line database operators in Canada: QL Systems, CAN/LAW, and SOQUIJ. Database operators get judgments from the courts, proofread or edit them to some extent, in some cases add information such as summaries or index terms, and make the judgments available in a database. While the addition of value-added features generally enhances access, it takes time, so that judgments are not available as quickly as in the case of unenhanced full text.

On-line services often publish all the judgments that are distributed by the courts, which has the advantage of ensuring that nothing important is culled in an editorial process; however, the result includes a large number of essentially useless judgments.

d. Case Reports and Digests

Legal publishers use selection criteria to decide whether a judgment is significant enough to print in their reports. Only 10% to 20% of written judgments are ever published; nevertheless, the volume is substantial (approximately 11,000 to 15,000 written judgments are released annually by the appellate and superior level trial courts in Canada). Legal publishers provide a number of value-added features, such as editing, verifying accuracy, checking citations, adding parallel citations, headnoting, and indexing. Some publishers also publish digest services that provide indexes and brief summaries of all or selected decisions, with the full text available on request, for a fee. The editorial process enhances ease of access, but delays the availability of judgments.

C. The Consumer's Perspective

In considering the dissemination phase, one must not overlook the perspective of the consumer. It is all very well to have a huge bank of judgments in paper or electronic form, but that does the consumer no good unless there is some way of locating the particular one - or the information about it - that the consumer is looking for. Judgments must be accessible in order for a dissemination system to be

effective. And there are several types of access that may be important to consumers: current awareness, access to judgments, and research. These are discussed below.

1. Current Awareness

One type of accessibility is current awareness - i.e., knowledge about recent developments in the law. The full text of the judgments generally is not necessary in order to provide current awareness. In fact, the full text of the judgments, by itself, is a very unwieldy method of providing current awareness. Some form of digesting is desirable, so that the consumer can gain a quick general knowledge of judgments of interest.

2. Access to Judgments

Another type of accessibility is to full text of the judgments. To some extent, this is dependent on, or at least facilitated by, current awareness services. The consumer who does not know that the judgment exists will not want access to the full text.

The full text may be used for a number of reasons - e.g., research or presentation to court.

3. Research

The term "research" encompasses a spectrum of types of activity. At one extreme is the consumer who wants to see a particular judgment and has most or all of the information necessary to locate it (e.g., names of parties, date, registry). This process or need might best be characterized as "case location".

At the other extreme is the consumer who has a more general research question and little specific information (e.g., the person who is looking for judgments in the last year at the appellate level dealing with constructive dismissal). This might best be characterized as true "legal research".

Although legal research is beyond the scope of our study, it is important to recognize that, in a functional sense, the distribution and dissemination processes do not end when a judgment is filed by a librarian, printed by a publisher, or entered into a database. One function of the system is to enable consumers to find and use judgments that pertain to the particular legal problems that concern them. If the system provided only a current awareness service and access to current judgments, lawyers would have to remember all the judgments they would need in the future. Either that, or they would have to set up their own subsystems to allow them in the future to locate and retrieve the judgments they need.

Obviously, a critical part of the total system is the means that researchers will use to find judgments. Traditionally, the development of research tools has come within the role of the disseminators (i.e., the intermediaries) rather than the distributors (i.e., the courts) and has, to a large extent, been driven by market demands. Publishers have created many systems over the years to aid researchers in locating reported decisions. The indexes published as a part of each set of law reports are one example. In addition, text books, treatises, encyclopedias, and looseleaf services are all part of the legal research landscape. The research tools available for locating unreported decisions are less well-developed, particularly with regard to judgments that are not available in an electronic database.

D. Electronic Databases

Electronic databases have become an important source of judgments in recent years. Not only has the number of databases increased, but their content, quality, and speed have been enhanced significantly. They have made possible more timely, comprehensive, and cost-effective access to judgments than could have been imagined before the age of computers.

The major electronic databases are discussed below.

1. QL Systems

QL Systems operates numerous legal databases, including such published reports as the Ontario Reports and Western Weekly Reports, the Dominion Report Service (a digest service), and several series from Maritime Law Book Ltd. In addition, it operates a bulletin board, called LAW/NET, and a database of Canadian judgments.

Over the past several years, QL Systems has moved very rapidly to create a system for providing access to judgments electronically through its own database, that is, through the private marketplace. QL provides several services that are relevant to judgment distribution.

One is a bulletin board called LAW/NET. QL attempts to place the full text of recent judgments of the Supreme Court of Canada in LAW/NET within approximately two hours. Thus, any QL customer anywhere in the country can get of a copy of Supreme Court judgments very quickly. Any member of the public and any lawyer can have access to this service through the various law libraries across the country that subscribe to QL's service.

LAW/NET also contains judgments of the federal and provincial courts of appeal that are felt by QL's staff to be significant. QL monitors the newspapers in order to be aware of important judgments, and will obtain a copy of any judgment they think will be of interest and enter it in the system within a couple of days of its

release. They will also add judgments when they receive requests from their customers.

QL customers can receive copies of any judgment in the LAW/NET bulletin board in two ways: by downloading the judgment to their own computers and printing it out, or by calling QL and having a copy faxed to them. Judgments stay in the bulletin board for a few weeks. LAW/NET is charged as follows: to read, print, and download summaries of judgments, $60 per hour prime time and $40 per hour off-prime; to read, print, and download the full text of judgments, $110 per hour prime time and $55 per hour off-prime.[2]

Another QL service that is relevant to the dissemination of judgments is the Canadian Judgments database. This contains the full text of all judgments released since January 1986 by the federal courts and the appellate and superior trial courts of all common law provinces; it also contains all decisions of the appellate court of Quebec since August 1989 (soon to be complete from 1986). The database fulfills an important role in the dissemination of judgments because any customer (including all of the major law libraries) can get a copy of any judgment from the database within a matter of a couple of weeks after the judgment is issued by the court. The researcher who does not have access to all case report series, or who does not want to have to look through all of them, should always be able to find a particular judgment through QL's Canadian Judgments database. The charge for using the retrieval system is $110 per hour in prime time and $55 per hour on evenings and weekends.

In the full-text databases, it is very easy to find a recent judgment if any of the basic data about the judgment are known (for example, the names of the parties or the judge, the court, and the date). This means that QL is highly effective as a mechanism for disseminating huge numbers of judgments in timely fashion. Conducting legal research in the full-text databases can be more difficult because effective use of the retrieval system requires learning and practice.

In addition to the full-text databases, QL has several databases with enhancements that increase ease of use for legal researchers. These include case reports with headnotes, and a digest service.

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2 Assuming that the average judgment is 10 pages double-spaced and contains 15,000 characters, the direct cost (i.e., not including staff time) of downloading a judgment (at 2400 baud) would be about $1.91 in prime time, or $.19 per page (compared to an ordinary photocopying charge of $.50 per page) Of course, most important judgments are much longer.

2. CAN/LAW

Canada Law Book offers an on-line database known as CAN/LAW. It includes the headnotes of Dominion Law Reports (DLR), the headnotes of Canadian Criminal Cases (CCC), and the summaries published in All Canada Weekly Summaries (ACWS) and Weekly Criminal Bulletin (WCB) and by its subsidiary, Western Legal Publications (WLP). It also offers several labour law databases, the Canadian Patent Reporter, and several bulletin boards (e.g., Supreme Court of Canada Judgments, Ontario Statute Citator, Canada Statute Citator, and topical bulletin boards containing summaries of judgments in a number of specialized fields). Canada Law Book has recently announced plans to offer full-text searching on its DLR database (dating from 1987 onward).[3]

The case reports are comparatively easy to search because of the value enhancements added by the editors (headnotes, index terms or key words, and so on). However, only a small percentage of cases are reported by Canada Law Book, and several of CAN/LAW's databases contain only the headnotes, not the full text of the reported decisions. Also, there is a significant time delay before the reports are published and the headnotes can be made available on-line.

The two national summary services, ACWS and WCB, contain very brief descriptions of each judgment received by Canada Law Book, and are intended to give access to unreported judgments. These are published very quickly, usually within about 45 days of when the decision is given. Users may order copies of full judgments. The summaries are too brief to provide really satisfactory access to unreported judgments.

The WLP database contains more complete summaries of all reserved judgments and transcribed oral judgments of courts in the western provinces. Fax copies of judgments are also available.

FirstCite is a new service offered by CAN/LAW. It contains case histories (names, citations, and dispositions) of all reported and unreported decisions received by Canada Law Book since January 1, 1988. Information received by Canada Law Book is entered in this database within ten days of when it is received. Users may order copies of a judgment. Because of its speed, this service allows the user who knows the name of a case to locate the unreported judgment before that judgment is summarized or reported.

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3 See N.M. Vaughan, "Technology - Applications: The Direction of Computerized Legal Research" (1990), a paper presented to Technology for Lawyers '90 Conference (Toronto: April 21, 1990).

3. SOQUIJ

The Societe quebecoise d'information juridique (SOQUIJ) was established in 1976 by the Quebec government. It operates both as a publisher in the traditional sense and as a database operator. Although state-owned, it is self-financing. SOQUIJ's databases include Express and Appel.

SOQUIJ has preferred status in the Quebec legal system. Basically, all copies of judgments must, under Quebec law, be provided to SOQUIJ. The following quotation from a paper prepared by a member of SOQUIJ staff describes its basic operation:[4]

> All judgments received are read by our legal counsel specializing in various areas of law. In accordance with predetermined selection criteria described in our protocol for the selection of judgments, they retain all pertinent judgments, which are then abstracted for publication in our appropriate digests. All decisions of interest are thus indexed in our reviews of jurisprudence... Subsequently, the full text of the most important among them is reported in our general or specialized compilations of jurisprudence...

The databases operated by SOQUIJ are described below:[5]

Express

> This bank includes summaries of all decisions handed down by judicial tribunals reported in the journals of SOQUIJ and indexed in the Annaire de jurisprudence du Quebec since 1980...

Appel

> This bank ... contains the full text of all reasoned judgments handed down by the Quebec Court of Appeal and the Supreme Court of Canada since January 1, 1987.

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4 P. Girard, "Computer-Assisted Research in Quebec Judicial Data Banks for Researchers Unable to Express Themselves in French or Whose Knowledge of that Language is Slight", paper presented to 1989 CALL Pre-Conference Workshop (Quebec: May 14, 1989).

5 Id.

SOQUIJ reports that, with the exception of Montreal, the registries send the judgments by mail, which can be quite slow (one to three weeks). In Montreal the judgments are picked up twice per week.

SOQUIJ and the Ministry of Justice have entered into a joint project that will replace the current system of judgment writing and distribution with one based on computers and modern communications technology. This is likely to have a significant impact on SOQUIJ's on-line services. It is discussed in more detail in Section E.

4. Specialized Databases

In addition to these general databases, a number of specialized ones have been developed. Examples include the University of Alberta's Health Law Database and Charter Database, the Alberta Case Locator, British Columbia's Sentencing Database, and the Canadian Human Rights Centre's Human Rights Database.

E. The Special Situation in Quebec

Quebec presents a special situation. SOQUIJ and the Government of Quebec have entered into a joint project that will result in a full-scale system for distributing judgments electronically.

1. The Current System

At the current time distribution of judgments is not proceeding as well in Quebec as in other provinces. QL Systems has only recently been given access to Quebec judgments, and to date that access has been limited to appellate court judgments. QL says that the judgments are on-line within two weeks. SOQUIJ databases provide access to the full text of Court of Appeal judgments and Supreme Court of Canada judgments. According to SOQUIJ, Court of Appeal judgments are available within one month. Supreme Court Judgments are available somewhat faster. Judgments of the lower courts are only summarized, and delivery of these tends to be slow. It takes from one to three weeks for the judgments to reach SOQUIJ. SOQUIJ tries to make their summaries available within two months.

Most judgments in Quebec are typed on ordinary typewriters. SOQUIJ reports that scanning these into the database is expensive, and quality is variable because of the variable quality of the material they receive.

2. The Proposed System

The joint project that has been entered into by SOQUIJ and the Ministry of Justice will replace the current system with one that is based on computers and modern communications technology. Final plans are not yet in place; however, it appears that the whole process of writing and distribution will be automated,

starting at its beginning. Judgments will be produced on personal computers. They will then be transferred to a central database. SOQUIJ and the government are currently working on how this database should be organized.

SOQUIJ sees the following benefits to the arrangement: it would eliminate duplication, it would assure that SOQUIJ would get all of the judgments, SOQUIJ would not have to scan paper copies of variable quality, total storage costs would be reduced, and Quebec lawyers would have access to all judgments.

It is far too early to evaluate the Quebec project, but it certainly bears watching because it will be one of the first full-scale attempts to distribute judgments electronically in North America. There is, however, one very important point to note - the Quebec government and SOQUIJ have recognized the importance of starting with the process by which judgments are created in the first place. The system for distributing judgments, when it is created, will be an integral part of the system that will be used by the courts to produce the judgments.

IV. FACTORS TO CONSIDER

A. Perceptions v. Reality

In discussing and evaluating the current distribution system, it is critical to distinguish between perceptions and reality. Frequently people we interviewed made strong statements, usually negative, about the present system; however, when we investigated further, we found that the reality often was quite different from the perception.

For example, a number of people complained about lack of access to unreported judgments; however, we discovered that the complaint typically was based on their lack of knowledge of the services provided by on-line database operators. The problem was not so much the system as the users lack of knowledge about the system. For this reason, education programs may have more beneficial impact than changes to the existing judgment distribution system.

B. The Importance of Context

It is also necessary to be clear with regard to the various parts of the judgment process. As stated previously, the current study is limited in scope to the part of the process that involves distribution of judgments by the courts, a process that relies on further dissemination by intermediaries to get judgments into the hands of the majority of consumers. Not surprisingly, when we interviewed people with regard to distribution, many showed a strong tendency to talk about the judgment system as a whole, and particularly to focus on the consumers' needs (especially respecting legal research), rather than to separate the various parts. This is

understandable, but can lead to confusion and inaccurate perceptions unless the parts of the system are distinguished and analyzed separately.

For example, the full-text on-line databases were said to be inadequate because they are difficult to use for legal research. While this comment is accurate, particularly for the researcher who is inexperienced in using the database in question, it fails to differentiate the role of the databases in case location from their role in legal research. It may be fair enough to say of the databases, as research systems, that they are hard to use and tend to produce either too few or too many references in response to most searches. But that does not mean that they are not effective in providing access to judgments quickly and efficiently to everyone in Canada who has access to a computer - much more quickly and efficiently than is feasible for any court's distribution system operating unassisted, and much more quickly and efficiently than has ever been possible until recent years. With respect to distribution, the fair comparison is between the paper system and the on-line system (while, with respect to legal research, the fair comparison is between paper case reports, digest services, etc., and the variety of services offered on-line).

As mentioned before (see page 12, Section A), we attempt to retain the conceptual distinction between distribution and dissemination, while recognizing that they are inextricably linked. For example, it would be impossible to evaluate the effectiveness of the distribution system without taking into account the fact that the on-line databases, while not a part of the courts' distribution systems, greatly enhance the effectiveness of those systems and provide a much higher degree of access than could ever be provided by the courts.

C. The Goals of the System

In order to evaluate a system, one must have a clear idea what that system is supposed to accomplish. What do the various participants in the legal system want the judgment distribution system to do, bearing in mind that it is but a part of the total judgment system? To whom should the system distribute? - i.e., who are, or should be, the recipients?

The courts seem to agree that their primary responsibility is to provide the parties (or their counsel) with copies of their judgment. They also feel that there is some obligation to provide public access to judgments. For the most part, the latter obligation is met by providing copies to intermediaries, like law book publishers and database operators, who in turn disseminate the judgments more widely. In addition, distribution lists include judges, lawyers, and libraries. All courts also provide individual copies of judgments on request through the registry, the library, or both.

In general, the distribution process has evolved on a day-to-day basis in each jurisdiction or even each courthouse, and has not been the subject of a coordinated

decision-making process. In most cases, the courts have not established a policy regarding their perceived obligation to distribute judgments and the manner in which they will meet that obligation.

The existing practices raise a number of issues. Who is included in the "public" and what must be done to ensure that there is true, meaningful "access"? Is the obligation to provide public access satisfied by giving copies to intermediaries via the distribution list? Should the courts also make copies available to individual lawyers, the press, and members of the public if they ask for them (and should the court provide assistance to help people locate the judgments they want)? These are policy questions that each court must address.

Many individual consumers, particularly members of the public, are not comfortable using a law library, do not have access to computer terminals, and would not be able to conduct an effective on-line search. If the obligation to provide public access is to be satisfied, the access provided must be meaningful to the person who is seeking it; if judgments were only available via published law reports and on-line databases, this might in reality be a denial of access to many members of society. A place where some assistance is available, such as a public library, a courthouse library, a courthouse registry, or, even better, a courthouse public information office, is much more accessible to members of the public and even to the press and many lawyers.

It seems clear, therefore, that an effective system will still need to provide for distributing copies of particular judgments to individuals on request, that some assistance may have to be given to the person making the request, and that in most cases the copies provided will be in paper form. Each court will have to make a policy decision whether to continue to supply judgments to the occasional consumer; however, the value placed on public access will probably ensure an affirmative answer.

Another policy question is whether, apart from the individual types of requests mentioned above, consumers should be able to subscribe to a select group of judgments (e.g., all family law judgments). This would add to the cost and complexity of the distribution system (e.g., it would require some kind of indexing by subject matter). In Canada, only the Supreme Court of Canada provides such a service, and it finds the system to be an administrative headache. A court would have to make a policy decision whether to pass the additional cost on to the consumers. The Supreme Court has decided that this would impede public access.

Computer technology can be used by the courts to improve the current distribution system. This does not mean, however, that a complex, costly system with search capabilities is desirable. That would needlessly duplicate the systems already built by the database operators. A case tracking system in combination with a judgment storage system (electronic or paper) would probably be sufficient. Courthouse staff could locate judgments readily and provide printouts or

photocopies for consumers. The court might consider the desirability of allowing consumers direct access to the system, either at a terminal in the courthouse or on-line.

An additional policy consideration relates to the availability of electronic versions of the judgments. Should electronic copies of judgments be distributed (on disk or electronically) to people on the distribution list or to anyone else who requests them? Transmission to QL and other publishers is an obvious application and, as mentioned earlier, a number of courts are experimenting with this (see Appendix B, page 62). In addition, some researchers (lawyers, librarians, and academics) say that they would like to be able to obtain judgments in electronic form in order to build their own databases and to experiment with different ways of organizing and retrieving legal information. Getting this information from existing databases is time-consuming, costly, and raises copyright issues. There may be others who also have an interest in obtaining electronic copies (e.g., editors of casebooks).

The development of technology, the possibilities opened up by it, and the expectations created by it, lead to a general question of considerable significance: does technology put a higher burden on the courts in the area of judgment distribution? Judgment consumers have three principal needs that they would like to have met by the distribution and dissemination processes: current awareness, access to judgments, and legal research. To what extent does any obligation to meet these needs fall on the courts? Traditionally, the courts' role has been limited to providing paper copies of judgments, with no enhancements to aid in current awareness or research, to parties, to consumers on request, and to intermediaries who respond to market demand for other services. In other words, it has not traditionally been the role of the courts to make judgments widely available or easy to use for research - that has been the role of the publishers. Is there any reason that the development of computer technology should raise the onus on the courts? This is a policy question for each court.

D. The Issue of Duplication

There are a number of legal publishers and database operators, and, as a result, there is a lot of duplication in law reporting. Lawyers and law librarians tend to feel that they must buy each major report series in order to be assured of comprehensive legal research tools. This has the undesirable result that they pay several times over for most of the judgments that they receive in published form. The problem of duplication has been studied over and over, and numerous agencies have tried to find a solution. Unfortunately, the problem is difficult to resolve in a free market and a society where freedom of the press is an important constitutional value. The problem of duplication is compounded by the increased budget constraints being felt by law libraries.

The problem of duplication ties into a consideration of electronic distribution and dissemination of judgments in an important way. If all judgments were easily

available through the electronic medium, it might not be necessary for a lawyer or librarian to buy so many report series. A judgment that is not covered in the particular reported series a lawyer buys could always be found quickly and easily in an on-line database - and, if the published law reports were also available on-line, together with the value-added features such as indexing and headnoting, judgment retrieval would be greatly enhanced. Interestingly, although nearly all of the common law judgments are available electronically within approximately three weeks after they are released, and some of the published law reports are available through either QL or CAN/LAW, the legal community continues to buy overlapping law reports and to complain of the expense involved.

The problem may relate in part to habit and to lack of knowledge about the availability of on-line resources (including new resources such as up-to-date full-text databases and traditional resources such as law reports); the answer to this may lie in educational programs. Or, possibly, the reports are used as a current awareness service. Such a service could be provided equally or more effectively through electronic means, either through provision of a specific service or through the indexes and headnotes of law reports (particularly topical reports) that are available on line (but not through full-text databases, which are expensive to browse on-line).

With regard to published reports, it should be noted that not all are available electronically. In each case, the customer will need to make a decision as to whether the information in the published reports is a sufficiently valuable supplement to the on-line resources to justify the continued expense. Market demand may lead most law report publishers to make their reports available on line.

Even though on-line resources may come to provide thorough, efficient tools for conducting legal research, they are unlikely, at least at the present time, to be completely sufficient to meet the needs of judgment consumers. There is still a perceived need, and sometimes a real need, for paper copy. This is discussed later in this report (see Section D, page 32).

V. EVALUATION OF THE CURRENT DISTRIBUTION SYSTEM

A. In General

In general, the current system involves very little automation, and each phase could benefit in many ways from a higher degree of it.

To reduce the paper blizzard, one should consider the possibility of intervening right at the beginning. Is it necessary for litigants to file paper? Would an electronic copy, or a facsimile image, do? When, if ever, will paper be needed? Only a small percentage of civil cases ever reach the hearing stage and, even if

they do, the increasing computerization of the courts may mean that, in many cases, an electronic version of the documents will be sufficient.

Once a case is filed, a number of people may be interested in its progress through the system (e.g., the lawyers, the parties, registry staff, the press, and possibly judges and lawyers with similar cases). The registry needs to keep track of the various documents and to be able to deal efficiently with inquiries. A computerized document filing and case tracking system would be a useful tool. As well, computerized scheduling of cases might lead to more efficient use of resources and avoid unnecessary delay.

Many court reporters are now creating the record of the evidence and argument by computer-assisted means, virtually instantaneously. This allows for increased efficiency both in the courtroom (e.g., in locating and reading back evidence) and outside it (e.g., by producing transcripts very quickly and making them available on disk).

The Alberta Court of Appeal is starting to work with appeal books in electronic form (i.e., produced using computer-aided transcription) as well as the traditional paper form. When the electronic form is used, judges can access relevant material directly on their own computers more quickly and easily than in paper appeal books, and they can include it in their own judgments directly, without the need to re-type it.

Judgment-writing ranks high as an area that could benefit greatly from the impact of technology. A computer can assist in organization of information, research, drafting, review, editing, and formatting. Increasingly, secretaries are using computers; however, few judges are. Typically, judgments are prepared by judges and their secretaries using a wide variety of equipment. Often the judge will draft the judgment or an outline longhand, then dictate it; the secretary will prepare it on a dedicated word processor or a computer.

A few judges are beginning to write judgments on computer, and interest is high within the judiciary. The Canadian Judicial Council has established the Judges' Computer Advisory Committee, which publishes a newsletter for federally--appointed judges who are interested in computing (over 450 judges are now on its mailing list). The Canadian Institute for the Administration of Justice held a conference in August 1989 on the impact of technology on the courts; it was well attended by judges. The Canadian Judicial Centre has established an introductory course in computing for judges; it has been offered ten times in the past year and a half, and approximately 200 judges from across the country have participated.

As well, in some places court, administrators are providing strong support for judges who want to use computers. In British Columbia, for example, a decision has been made to provide computing resources to the courts and to the judiciary, and to standardize hardware and software. In the past year and a half

approximately 60 personal computers have been made available for judges and their secretaries, and mechanisms for training and support are being put in place. Alberta has made computers available to appellate judges.

Unfortunately, the support that is given to the judiciary varies widely across the country. While computers have been provided in some provinces, judges in other provinces have had to buy their own, and often the computers are not compatible with the word-processing systems in their courthouses. Nor is adequate training and support always available for judges who want to improve their efficiency by learning about the opportunities offered by technology.

As one judge put it after having taken the Canadian Judicial Centre course on computers, "What good does it do when we go back to our courts and do not even have access to a computer to practice on?"

Technology could also be used more effectively in the printing and collection of judgments. For example, the judges and secretaries could all be on a network, using it to transfer the judgment efficiently from judge to secretary and back until the judgment is completed. When the judgment is completed, the network could be used to transfer the judgment to a central computer that could handle printing. This is the model that is used by both the Supreme Court of Canada and the United States Supreme Court; it is also the model that B.C. and Quebec are now developing.

One key point deserves special attention: within a province or even an individual court, several types of equipment are typically used to produce judgments. Standardization of hardware and software is rare. Before they can consider electronic distribution, court administrators should develop a standard, well designed, coordinated system for producing judgments.

The distribution phase is the focus of our study and is discussed in more detail in later sections. Electronic methods have the potential for improving the distribution process, and a variety of methods are available (see the discussion in Part VI, Sections A and B starting on page 37).

B. From the Consumer's Perspective

The system of judgment distribution and dissemination has become dramatically more timely, comprehensive, and cost-effective due to computer technology, but the system works well for only some consumers. An examination of the current system leads inevitably to the conclusion that there are two types of consumers - those who have access to computers and those who do not. The system provides relatively effective service to the former and relatively poor service to the latter. The consumer without a computer is essentially in the same position that all judgment consumers were in ten years ago.

1. The Consumer Who Does Not Have Access to a Computer

The judgment consumer who does not have access to a computer is at a serious disadvantage in the present system. There are significant barriers that prevent use of the electronic part of the system by most members of the public and occasional users, effectively limiting access to people who are experienced in on-line research and to those with enough knowledge and comfort to draw on the skills of a trained researcher at a courthouse, law school, or law firm library.

First, it is necessary to have a computer and modem, or access to both, in order to use the electronic system. Second, it is necessary to have an account with the operator (e.g., QL Systems, SOQUIJ, CAN/LAW). Third, since the systems are not particularly user friendly, training is required before a consumer can use them effectively. And, finally, search costs are quite significant. For a trained researcher, computer-assisted legal research often is the most cost-effective method for locating a particular judgment; for an untrained one, it can be costly and unproductive.

For lawyers, these barriers will soon disappear because they will have to either use computer-assisted legal research tools themselves or learn how to work closely with research lawyers and law librarians who do use these tools. In at least some types of legal research, it is now professional negligence to rely entirely on paper sources.

For non-lawyers, public libraries could assist access by providing a computer and trained staff; however, this seems to be very rare. In reality, the current system forces members of the public who want to obtain a copy of a judgment to do it through law libraries or the court registries themselves - and most members of the public are not particularly familiar or comfortable with using these facilities, nor are most of these facilities particularly hospitable to the consumer who does not understand "the system". A courthouse public information office, specifically set up to provide public access, would be preferable.

2. The Consumer Who Has Access to a Computer

For the judgment consumer who can take advantage of computer-assisted access to judgments as well as to traditional methods of accessing judgments, the current system of distribution by the courts and dissemination by intermediaries provides relatively effective service - and incredibly effective service when compared to the situation faced by the consumer without a computer.

Three fundamental criteria for an effective system are relatively well met:

(1) Accessibility. Judgments are accessible to consumers who have access to a computer and who have a small degree of information about the judgment they are looking for, sufficient to conduct a search. There can be a

lag time of a month or more during which there are access problems. The cost of locating a judgment electronically is generally less than by other means, particularly for unreported judgments. Full text can be obtained through the fax services maintained by the database operators.

(2) Timeliness. Judgments are available in electronic form quite quickly (from two hours to a few weeks, depending on the court and other factors).

(3) Comprehensiveness. QL provides the full text of all superior court judgments outside of Quebec, and is extending its services within Quebec. SOQUIJ provides the full text of Quebec Court of Appeal and Supreme Court of Canada judgments and is moving toward a more comprehensive service that will include the full text of all Quebec lower court judgments. CAN/LAW provides digests (in ACWS and WCB) of all judgments it receives.

The services provided by QL, CAN/LAW, and SOQUIJ could all be improved. Some of the improvements would originate with the courts. For example, if a judgment is not available on-line, it is typically because the court did not send it. In terms of comprehensiveness, therefore, improved procedures at the courts would assist. Sometimes there are substantial delays; again, our information suggests that these are often caused by a delay in the judgment getting to the database operator in the first place, rather than a delay in getting it into the database.

One clear area of weakness in the system described above is lack of access between the time when the judgment is released and its entry into an on-line system - which may be between two weeks and a month. This is the very time that publicity about a case, and interest in it, may be at their highest, and this is the time when the judgment consumer must rely on traditional methods of access, with all their inadequacies. The person who hears about a significant new case may not have sufficient information to enable a librarian or member of the court registry staff to locate it easily.

C. From The Courts' Perspective

Most of the complaints with respect to the distribution process come from court administrators and judges who are concerned with the cost of distributing judgments and the paperwork burden that is involved. We heard, for example, that the mailing list for the distribution of judgments tends to grow, and that the process of distributing judgments imposes an undesirable burden on court staff.

We found some interesting patterns:

(1) The lists would not be terribly unwieldy if proper methods of handling were followed. Many lists have only 50-60 names. If there were a proper system for printing judgments, stapling them, putting them in envelopes,

and attaching mailing labels, it simply would not be much of a burden. The problem is that this is all being done by hand, and each judgment is being individually handled.

(2) Aside from the intermediaries, the lists do not include many agencies outside the courts and government. In most cases, courts and government receive judgments free of charge, and one has to wonder whether they would ask for the copies if there were a charge.

(3) In many cases the distribution of judgments really appears to be serving as a current awareness service. Many people on the distribution lists might be better served by a newsletter that would advise of significant judgments.

The complaints about a paper blizzard often go more to the manner in which judgments are written, revised, and printed than to the distribution system. We will make suggestions about how court administrators can ease the burdens that existing distribution systems impose, but the more critical need is for an efficient means of dealing with judgment production and flow within the court itself. In comparison, the problem of how judgments are actually moved out the door seems insignificant.

D. The Importance of Paper Copy

One of the complaints we heard most often had to do with the amount of paper the courts have to process. Put simply, the question most on people's minds seemed to be: "Can we make the paper go away?"

In a word, the answer is "no" - certainly not yet, and perhaps never. There are several aspects to the problem. It seems that almost everyone involved in the system seems to need (or to think that he or she needs) a paper copy of the judgment as it was issued by the court.

The publishers and database operators stated that they need it for a variety of reasons. Librarians noted that lawyers prefer to work with copies of the material issued by the court; although they may do their searching through the electronic medium, they will ask for a copy of the judgment itself. For this reason, most librarians maintain files of paper copies.

The database operators have found that their customers also have a strong desire for paper; in response, they now provide facsimile services. After the on-line searcher has found the relevant judgment, a facsimile copy can be ordered from the database operator.

1. Reasons for Wanting Paper Copy

There are a variety of reasons that consumers want paper copies of judgments. Some of the reasons relate only to a preference for paper, in which case a printout of an on-line judgment will suffice. Others relate to a preference for a paper copy identical to that signed by the judge. Some are simply due to habit and some relate to the consumers' level of computer literacy - matters that will change with time. Others are more significant, and may tend to ensure that, while the number of paper copies in use may decrease significantly, there will always be some need for paper copies.

a. Necessity

Many people do not have access to computers, modems, and printers. A paper copy is all that they are able to use. Nor is it realistic to expect all consumers of judgments, particularly the occasional consumer, to learn the rather complicated search strategies used for different on-line databases.

For the legal profession, lack of equipment may not be a significant factor for much longer because the profession is rapidly coming to realize the necessity of automation. Certainly most law librarians, research lawyers, and articling students, as well as an increasing number of practising lawyers, now have access to and some degree of familiarity with computer-assisted legal research.

The press also tend to be quite sophisticated with regard to the use of technology. However, it is probably unrealistic to expect all members of the press to learn how to use an on-line legal research facility to locate and download judgments of interest.

The most significant access problem is really with regard to the public - the parties to an action and the individuals and interest groups who occasionally want a copy of a judgment. It is highly unlikely that many of these people will be able to locate and deal with a judgment in electronic form. This does not mean that their source of judgments (e.g., a courthouse registry or public information office) should not be automated; it just means that paper copy is the format they will need to receive.

b. Habit, Comfort, and Convenience

A large part of the reason for wanting paper copy may have to do with habit, and the fact that many people are more comfortable dealing with paper than with a computer. There are a number of circumstances in which paper is more convenient. A paper copy can be read on the bus, taken home, marked up, put in a file, and taken to court. Arguably, all of the same things can be done with an electronic version, but most people have not yet developed the habit of making such broad use of a computer.

Paper versions can be obtained by downloading judgments from an on-line database; however, photocopies of the original judgments are generally easier to read than downloaded versions and, in turn, photocopy better (although technological developments will probably deal with this situation soon). Also, time is involved for the lawyer or librarian who is downloading the judgment and tying up a computer.

c. Accuracy and Consumer Confidence

Inaccuracies may occur in electronic copy due to errors in input or transmission. Technological advances in transmission and error-checking will assist with this problem. Nonetheless, for the present at least, judgment consumers seem to feel that they need to verify that the copy they have is the same as the one the judge saw and approved.

d. Publishing Considerations

Publishers and database operators agreed on the need for paper copy.

Some use it for input, either by optical scanners or by keyboarding. Others input their judgments electronically (e.g., QL, when it can). But they still want to check the input against the paper copy issued by the court. They want to have a copy of what the judge approved so they can check for errors in the electronic copy.

Also, electronic copy does not show certain format details, such as underlining and italics, which are relevant to the paper publisher and often to the consumer.

Because publishers sometimes have to refer questions back to the judge, it helps if both the publisher and the judge have a copy of the same thing in front of them.

The database operators keep paper copies so that they can fax them out to the numerous people who have requested this service. Other publishers (e.g., Western Legal Publications) publish digests and offer copies of full-text decisions.

e. Record-keeping

Most librarians and registries find it easier to maintain some kind of paper filing system with an index. For example, librarians may keep the copy sent out by the courts until the judgment is reported, at which time they will note the citation on the index and throw out the paper copy. Unreported judgments may be kept for a considerable period of time.

One reason for maintaining paper copies is, no doubt, habit. A more important reason is that the libraries and registries deal with consumers who tend to want paper copies identical to those issued by the courts.

f. Verification

There are situations in which an "official" copy of a judgment is required - for example, court-certified copies may be required by various courts and agencies in Canada and elsewhere.

There is some question as to whether the courts will accept a printout of an on-line judgment if it is submitted in a case. In some instances, printouts are accepted without question; in others, judges want photocopies of the original judgments.

There are at least two reasons at present for the reluctance to accept electronic copies, or printouts of them. One is that there is no assurance that the copy is identical with the "official" version issued by the court. The judge's signature on a paper copy serves the purposes of identification and authentication (i.e., consent to content). Another reason for reluctance is that the copy is incapable of carrying all of the information in the original (e.g., underlining and italics, a signature, a registry stamp).

It is likely that the acceptability of electronic versions will become more widespread. In the meantime, it is probably still necessary to maintain on file an archival signed paper copy, for purposes of verification and for preparation of court-certified copies.

It would be helpful if some authoritative body, perhaps the Canadian Judicial Council, could issue a statement concerning the acceptability of computer printouts.

g. Citation

There is no agreed way to cite the electronic version of a judgment. Another problem is that there is no easy way of referring to parts of an electronic judgment. The pagination of a printout is not the same as the pagination of the decision released by the courts.

h. Cost

Some people cite the cost of electronic searching and electronic copy as a reason for preferring paper copy. It is difficult to make a cost comparison because a number of factors come into play. For example, if the user does not have all the details necessary to locate the judgment, a search of a full-text database will generally be much more cost-effective than other methods (e.g., phoning the registry, phoning the lawyers who were involved in the case, searching through piles of paper in the law firm library). If the user knows the details necessary to locate the judgment, the cost of downloading it compared to the cost of having it photocopied and faxed or couriered will depend in part on the length of the judgment, the amount of staff time that is required for each option, and the amount of disruption that

results from using secretarial equipment (if that is necessary) for downloading. Staff costs are a major factor. On-line costs amount to about $.20 per page at a transmission rate of 2400 baud.

2. Can Paper Ever be Eliminated?

The factors set out above strongly support the reluctance of all concerned to depart from reliance on the paper copy, or at least a facsimile of it - at least until the problems discussed above have been solved. However, there are a number of steps that might be taken to at least reduce the amount of paper in circulation.

Efficient distribution through electronic means, and increasing familiarity with electronic distribution and with working with documents on computer, may reduce the number of paper copies in use. For example, librarians may find it more efficient to use an on-line system to locate judgments, then order fax copies, than to devote staff and space to maintaining systems for managing masses of paper. Registries are receiving fewer requests for photocopies as lawyers and librarians are starting to use the database operators' fax services (which are often quicker for the user than obtaining a copy from the registry).

Many of the reasons for paper copy discussed in the previous section can be dealt with satisfactorily. With respect to verification based on having a version with the judge's signature and the registry stamp, it is possible that, with proper safeguards, an electronic "signature" could serve the same purpose. The omission of information such as formatting details will probably be solved as technology continues to advance. The lack of an acceptable citation style for electronic versions can be easily solved now: the databases include identifiers, or citations, for each judgment, and there is no reason that these should be less acceptable than citations in paper case reports. The ability to refer to parts of an electronic judgment could be dealt with through the addition of page numbers or, preferably, paragraph numbers.

The questions of reliability and consumer confidence could be answered by the courts deciding to issue official judgments in two formats: paper and electronic. Both versions would need to be verified, then, when issued by the court through whatever means it chose (e.g., paper, disk, an on-line database, or distribution through another party such as a publisher), each would be equally authoritative. Each court will need to evaluate whether it wishes to incur the cost of producing verified authoritative versions in two different formats - paper and electronic. Until the courts do provide a verified electronic copy of their judgments, or decide to accept printouts from databases, it will be necessary to have a paper or facsimile copy of the original; even then, it may take a long time before consumers have sufficient confidence in the system that paper versions can be eliminated.

British Columbia is examining the feasibility of eliminating paper entirely from the court system. Filings would be scanned into a database, possibly using imaging technology. Judgments would be prepared on computer and transmitted to the people who need to work on them (secretaries and judges) within a networked system. The result would be a centralized storehouse of decisions in progress, as is the practice of the United States Supreme Court and the Supreme Court of Canada, and as is planned in Quebec. It would then be possible to distribute judgments in electronic form, or provide access to them through a bulletin board, when they are released as official electronic versions.

However, even if the courts could easily distribute official electronic versions of judgments and the problems regarding citation could be resolved, there would remain some demand for paper copies. The litigants need copies. The courthouse registries and libraries have line-ups on judgment day. Certainly not all of the people who, from time to time, want judgments will be able to use the electronic version. There will probably always be people who do not have access to the technology that is required to take advantage of electronic distribution. Therefore, to some extent, parallel distribution systems must exist.

VI. THE TECHNIQUES OF ELECTRONIC DISTRIBUTION

A. General Considerations

In order to determine whether electronic distribution could improve the current system, it is necessary to consider the techniques that are available. There are four ways in which judgments could be distributed electronically by the courts: sending computer disks, transmitting electronic versions of the judgments over telecommunications networks, providing on-line access through either a computer bulletin board or a database, and transmitting judgments to an intermediary who is responsible for making them available to consumers. They are not exclusive; courts might offer a combination of services.

We will briefly discuss each approach. Two initial comments should be made, however. The first point is that any meaningful consideration of electronic methods of distribution must be based on a judgment production system that results in electronic copies. Before a court can begin to think of implementing electronic methods of distributing judgments, that court must ensure that the judgment production process has been organized into an efficient automated system.

The second point is that, even if the courts do automate their systems, judgment consumers may not be able to access an automated distribution system. While intermediaries are or may soon be able to deal with electronic versions of judgments, there are many consumers, especially members of the general public, who will have considerable difficulty in doing so. And, as discussed above, even

consumers who have access to electronic versions may, in addition, want paper copies.

B. Techniques Available

1. Providing Disk Copies

The first, and least complex, option is to make disks containing the judgments available to those who want them. This approach has the advantage of simplicity, and it avoids the need for publishers and database operators to re-key information or to use optical scanners. Accuracy and speed of publication should be enhanced.

For this approach to work, however, judgments will have to be produced on word-processing equipment that is reasonably compatible with the equipment used by the recipient - or else the recipient will need to use some kind of conversion process. Also, court staff will have to produce disks and distribute them. This is likely to be as burdensome and time-consuming as it is to distribute paper copies of judgments.

2. Direct Transmission

A second option is to transmit the judgment directly over the telecommunications networks to the recipients. A wide range of technical options is available.

At the low-cost end of the spectrum, each court would require a personal computer, a modem, a communications program, a telephone line, and someone who knows how to operate the system. When a judgment was completed, the judge's secretary would dial up the recipient's computer and issue the commands that would cause the judgment to be sent over the wires to the recipient's computer.

At the high-cost end of the spectrum, each court system might maintain a central host computer. Final versions of judgments would be transmitted by the secretary or judge to the host computer, which could then transmit new judgments to recipients without requiring individual attention by court staff and without having to use secretarial work stations.

A direct transmission system raises an issue of security. At the point when the court links its own system with the outside world, it must ensure that appropriate security measures are in place. This matter is discussed in more detail on page 41, no. 4.

3. Maintaining an On-line Information System

a. Operating a Computer Bulletin Board

The third approach is for each court system to maintain its own host computer, which users could dial into directly. Each court system would be providing directly a service very much like that now provided by the database operators. The time delay in access to judgments could be reduced, although it could also be reduced by providing judgments to the database operators by use of electronic transmission.

Again, there are a variety of options, ranging from a simple bulletin board system maintained on a personal computer to a large-scale computer with full searching capabilities.

The typical personal computer bulletin board consists of a simple personal computer, a modem, a dedicated telephone line, and programs that manage the exchange of information between the computer that is dialing in and the host computer. Each case, as it is decided, would be added to the system, and there would be a list of the judgments that were available. The user would dial in, pick the desired judgments, and direct the host computer to transmit the judgments to the user's computer. Sophisticated searching would probably not be possible, and judgments would probably not be maintained on the system for very long.

The biggest advantage to a court is that a system like this can make judgments available to an unlimited number of interested parties at a minimal cost (under $10,000). The most significant limitation of the simple bulletin board has to do with the number of users who can dial in at one time. In most cases not more than one or two users could access this sort of system at one time. This would severely limit the system's usefulness for distributing current judgments in a timely way because most users probably want to get a judgment at the same time - either just after it is released or just after it is reported by the press.

However, greater accessibility can be provided simply by using a larger computer and providing either DATAPAC access or more incoming telephone lines. The cost of an adequate system could range anywhere from $10,000 to several hundred thousand dollars, depending on the features that were desired, the number of concurrent users it would handle, how long the current judgments would remain available, and whether full searching facilities were required. Such a system would require staff and a customer support service.

The bulletin board approach raises the issue of security, which is discussed in more detail on page 41, no. 4.

b. Operating a Judgment Database

The most sophisticated, and most expensive, option is to offer a full on-line database that could be accessed by numerous people at one time. What distinguishes a bulletin board from a database is that the latter includes sophisticated retrieval software allowing the user to search for documents based on their subject matter or contents.

Development and operation of a judgment database takes the court far beyond the traditional type of distribution that is currently carried out by the majority of courts in Canada. Rather than simply providing photocopies (or disks) as a service to 60 or so consumers, with relatively few associated direct and administrative expenses, the court that sets up a judgment database becomes, in essence, a legal publisher and a database operator, with all the expense and complexity of process that is involved.

A system of this sort would require a more powerful computer, all the associated hardware and sophisticated software, and a staff to manage it (including a systems administrator, a programmer, data entry personnel, user support personnel, a manager, and possibly others). The total yearly cost just of operating the computer system would probably be in excess of $500,000, exclusive of editorial, management, sales, and data input staff. Such a system would also raise security considerations (see the discussion on page 41, no. 4).

There are two major potential disadvantages to the operation of judgment databases by the courts.

The first is that it would put them in direct competition with existing on-line services, probably to the detriment of one or all. For example, if QL had to compete with regional databases operated by the courts, its national database might become unprofitable, and all judgment consumers would lose the benefits that flow from having a national database. It is probable that not all court systems would be able to set up judgment databases; therefore, many unreported judgments would become virtually inaccessible, and access to many other judgments would have to wait until law reports were published.

The second major disadvantage to court-operated databases is the possibility that on-line publishing will echo the proliferation and duplication in law reporting that has occurred in book publishing. At present there are three major Canadian database systems, each with somewhat different features and search protocols, and there might soon be others. Moreover, small databases are being developed across the country and some are starting to be available on-line. Unless some coordination or standardization is introduced, there is a frightening prospect that dozens of on-line databases will proliferate, each accessible at a different phone number, each with its own user interface and search methodology, each

overlapping to some extent with others in terms of judgments included, and each with its own associated expenses.

Another concern is whether a court-operated database would be run as a monopoly (i.e., restricting access to judgments by "competing" database operators, or setting up as the "official" database). Also, what would be the financial basis of the operation? - cost recovery or for-profit? Both issues involve serious concerns with respect to public access to judgments.

Finally, it seems hard to appreciate the benefits that would result from court-operated databases, as compared to the current system. After all, most of the judgments are already contained in the sophisticated databases operated by QL Systems, CAN/LAW, and SOQUIJ. In light of the disadvantages mentioned above, it seems that the best answer lies in trying to improve the current system, rather than in replacing it with something that is likely to be less satisfactory.

4. The Clearing-house Option

Another possibility is that the courts could transmit their judgments to one intermediary and that intermediary could be responsible for making the judgments available to consumers. From a practical point of view it is hard to see how inserting another level in the distribution chain can speed access to the judgments; however, this approach also raises serious policy considerations. For example: should one of the existing database operators become the intermediary; how would the choice be made; how would the performance of the intermediary be controlled; would this be a monopoly; and can access to court judgments be restricted by being concentrated in one organization? The Supreme Court of the United States is currently experimenting with distribution via an intermediary. Full evaluation of this option should await the outcome of that experiment.

The clearing-house option raises security considerations, as does any system that permits people outside the court system to link electronically into that system. For example, it has been pointed out that speed of access would be enhanced by providing "advance copies" of judgments to a database operator so that they will be available as soon as the judgments are released. No court has been prepared to do this. In fact, the United States Supreme Court is so concerned about security that staff physically carry disks containing the final versions of judgments across a room to a separate (and isolated) computer, from which they are transmitted to the clearing-house, rather than transmit them through a network that others can connect into.

As soon as outsiders are allowed any degree of access to the court's internal computer system, careful consideration must be given to setting up appropriate security measures.

C. Cost Considerations

The wide range of options available makes it difficult to say anything definitive about the cost of distributing judgments electronically. The cost of any of the approaches outlined above will depend very much on the particular environment in which it is established.

Starting at the low-cost end of the spectrum, it would clearly not cost very much more than the current system to provide disks to publishers and database operators - that is, if the court had computerized its judgment production process. Costs would include the staff time necessary to make electronic copies of the judgments, collect them, and distribute them. But these functions could be carried out by the same people who prepare and handle paper copies now.

On the other hand, the benefits are likely to be substantial. First, publishers and database operators would not have to either re-key or scan the judgments. This would reduce their costs and eliminate a major source of errors. Second, the time necessary to make judgments available to consumers could be reduced significantly.

Direct transmission of judgments seems more problematic. If standard secretarial equipment is used in order to keep costs down, the process will be disruptive and will take a lot of secretarial time. This can be avoided by installing a larger central computer and a network, but that requires a lot more money for equipment. In addition, networks and large computers require specialized staffs to maintain them. Also, the quality of electronic transmission is not entirely reliable, and at least some consumers will need to find methods to verify accuracy.

Whether direct transmission would be justified, and exactly what additional costs would be imposed on the court system, depends on a detailed analysis of the particular situation. Does the court already have a network or a central computer that is used for word processing or records management? Is it an easy matter for secretaries or judges to transmit judgments to the central computer? Can the judgment transmission function be added easily? It seems likely that only the larger court systems, which have a heavy case load, will find this option attractive. The issue underscores the need for each court to develop its own strategic plan for the introduction of technology.

On-line systems lie at the other end of the spectrum. Rejecting the small bulletin board system for the moment, because of its obvious access limitations, the cost of operating a multiple access system would be fairly high. There would have to be a network and a large host computer, multiple incoming telephone lines, technical staff, customer support staff, and administrative staff. It is difficult to see how this could be justified for the current size of the distribution lists. The cost of photocopying, collecting, and mailing is undoubtedly much less than the cost of creating and maintaining a computer network.

However, if a court already had a host computer and a network, perhaps installed to help the judges and their secretaries write judgments efficiently, the picture would change dramatically. The same network and the same host computer could be used to provide limited access, with appropriate security precautions, to a bulletin board. The added costs would include renting sufficient telephone lines, the telephone access equipment, and some software, as well as administrative costs.

If the court is interested in setting up its own judgment database, the sky is virtually the limit. It all depends on how far it wishes to go. Some of the considerations (e.g., editorial decisions, fees, accounting system, training, and user support) are discussed on page 40.

VII. CONCLUSIONS AND RECOMMENDATIONS

A. General

Many important court functions could be improved by technology, yet little has been done to date. Interestingly, one of the leading areas is electronic dissemination of judgments. Due to the efforts of database operators, a relatively effective system is in place. There is much the courts could do to improve this system. We noted two particular areas of weakness: the delay of up to a month in getting judgments on-line, and the lack of any method to ensure that judgments are not missed.

In addition, and perhaps more importantly, the courts could do a lot to improve other court processes that currently rely heavily on paper.

The key issue has to do with how decisions about priorities and the introduction of technology should be made. At present, different individuals, organizations, and courts are developing small systems to do one or another task, all without talking to each other very much or thinking about the priorities for the over-all system. This activity is taking place in a policy and planning vacuum. It is bound to produce a proliferation of incompatible systems.

B. The Need for Strategic Planning

We recommend that:

1 Each court develop its own strategic plan for the introduction of technology, in cooperation with governments and other courts.

Distribution of judgments is not an isolated function. It takes place as a part of the overall system by which judgments are written and disseminated to the legal community and the public at large, and it must be viewed in the context of the total workflow of the courts. It would make little sense to improve the manner in

which judgments are distributed if those improvements were inconsistent with the rest of the system. Equally, it would be a serious mistake to institute reforms in this area if those reforms would have the effect of preventing the courts from undertaking other, more urgent, reforms in other areas of their activities.

For this reason, it is vital that each court develop a strategic plan for the introduction of technology before undertaking any particular technologically-oriented projects. A strategic plan establishes the strategies that will be followed when selecting and implementing technological projects, such that practical and policy goals are met in an efficient and cost-effective manner that minimizes the risks involved. Issues to be dealt with include the goals to be sought by the introduction of technology, the procedure for making decisions, the participants in the process and their roles, the criteria for evaluating proposed projects, and the way in which priorities will be set among competing projects. The process should result in the setting of short-term and long-term priorities and courses of action, and the establishment of the policies and strategies to ensure that the actions taken are coordinated and that the risks are minimized.

This does not mean that technology cannot be introduced until all the details have been planned for every aspect of the court system. That would be an overwhelming and impossible task, and while it was being done court administration would fall further and further behind. Moreover, technology is advancing very rapidly. It is not possible to plan in detail now for developments that will be undertaken five and ten years from now, because very different technologies will be available by then. A strategic plan does not deal with the details of each possible project, or even establish definitely which projects will proceed. Rather it sets the framework within which priorities will be established, projects will be planned, ongoing assessment and revision will occur, people affected will be consulted, and implementation will be planned, providing for flexibility in meeting evolving needs and taking advantage of evolving technology.

For example, a court might decide that it should stay with the most common technologies, to ensure compatibility with government operations and with the legal community, and because this may offer the best prospect for taking advantage of new developments in the future. This principle would then form a part of its strategic plan. Another principle might be that every system should be designed so that it can be adapted easily to fit with other systems that might be developed in the future. A concrete example of the application of this principle would be the requirement that any system for judgment writing be easily adaptable to meet the needs of judgment distribution.

It is beyond the scope of this report to suggest in detail the steps that should be taken to develop a strategic plan. The court should retain a consultant to assist in the development of a plan unless the court has access to sophisticated planners, either within its own system or within government.

However, there are a few observations that we should make. The first is that the considerations that will be important to any project are site-specific - that is, they depend very strongly on the precise context in which the project will take place. A large court system can afford to consider, for example, the installation of a host computer and network. A smaller court system might not need or be able to afford such a large and complex system.

The second point relates to the nature of the planning process and the speed with which technology is advancing. Since it is not possible today to plan in detail five and ten years into the future, any plan that is developed should be flexible enough to meet and take advantage of the changing circumstances and opportunities presented by technological change. Also, plans will have to be reassessed and modified on a regular basis to take account of changes in technology and changes in the court's own systems and needs. The planners must constantly monitor such developments and be alert to anything that might call for a revision of the plan.

The third point has to do with the opportunities offered by technology. While technology can certainly be used to automate existing processes, it can also make possible things that could not be done by manual methods. Planners should be creative in thinking about what they might want to do; if the technology is not available to do something now, it may well be in the near future.

The fourth point relates to the people who will be affected by the introduction of technology. It is desirable to consult broadly with them in order to avoid unforeseen problems and to gain the support of everyone involved. Technology of itself has no value - it must work for the people who will use it. The best guarantee that it will work is to involve these people in the design and implementation process. They should be consulted at all stages. They are in the best position to know the details of the type of work that is now done, to envision the areas for improvement, and to comment on appropriate user interfaces. Their involvement throughout will help to ensure their acceptance of the new system, and will facilitate implementation. Care should be taken to avoid unrealistic expectations, which could lead to disappointment with a system once it is installed. However, they should be encouraged to see the advantages offered to them by the new system; for example, a decrease in boring, routine work, an improvement in quality, and the opportunity to focus on more meaningful work and to be more creative in what they do.

The fifth point deals with implementation of the various proposed changes. A strategic plan must ensure that there is a thorough plan for implementing each step, taking into account matters such as down time or overlap of manual and automated processes, staff training and support, problem-solving, and incorporation into the master plan of feedback and lessons learned at each stage.

This leads into the sixth point, which is that it is helpful to start with some relatively short and simple projects. This has a number of advantages. From a budget

perspective, it spreads the project more evenly over a longer time frame, rather than starting with a huge initial expenditure of time and resources. It lays a foundation on which to build, and minimizes the risk of large-scale failure by providing an opportunity to work out some of the bugs when things are still on a small scale. It leaves the way open to take advantage of technological developments in the future (e.g., new kinds of technology or technology that is currently untested or too expensive) as more complex parts of the strategic plan come up for implementation, rather than tying the complete system to the technology available on the project start date. It allows for the development of expertise, both in-house and with consultants, regarding the court system, the technology, and the people involved. Also, while the planning process goes ahead, there are one or two useful outcomes of it already in place, providing recognizable benefits and giving everyone a feeling of accomplishment and a sense of progress. An apparently endless planning process that never seems to achieve results can be demoralizing for all concerned.

Although each plan must be site-specific, it is highly desirable that the various courts in Canada coordinate their plans in some fashion, perhaps setting some standards or guidelines. This will help to ensure that they do not proceed in different and incompatible directions and will maximize the opportunities for sharing data and for cooperating in joint projects in the future. For the same reasons that incompatibility is undesirable within one court system, it is also undesirable nationally. Jurisdictions are not isolated; in fact, they are highly interrelated, and case law from one jurisdiction is used frequently in others. It would be tragic if the approaches taken in different jurisdictions precluded the development of national legal information systems.

C. Recommendations with Respect to Electronic Distribution of Judgments

We recommend that:

2 *Courts include the electronic distribution of judgments in their strategic plans as one of the possible technology-oriented projects for evaluation.*

Electronic distribution of judgments should included in the strategic plan as one of the options that is considered.

From what we have seen and heard, we do not believe that a full-blown judgment database is the place to start, but making judgments available to intermediaries on disk is an easy step that would have substantial benefits, chiefly by reducing delay in the availability of judgments and increasing accuracy of existing databases.

We recommend that:

3 *Disks be made available to database operators and other publishers, and that the feasibility and cost-effectiveness of other electronic methods of judgment distribution be evaluated with regard to database operators, publishers, and other judgment consumers.*

A significant improvement could be made in the distribution system if courts were to make their disks available to database operators and other publishers. This would eliminate the need to use an optical character reader, which is time-consuming and introduces errors in the database. QL has worked with a number of courts to find ways of dealing with the types of disks they produce; however, courts with old-fashioned, incompatible equipment will find it difficult to forward disks.

Other forms of electronic distribution should be considered as an option by courts that have the technology that would enable them to do it. QL has worked with several courts to find the most effective methods for producing and transmitting electronic copies that are as free of errors as possible.

If some form of electronic distribution (disks or transmission) is put in place for dealing with database operators and other publishers, the courts might consider also making such methods available to other judgment consumers. Some researchers have pointed out that they need ready access to electronic versions of judgments in order to design and build innovative legal information systems. Others would simply like to have their own databases, accessible by their own search methods, for easy organization and retrieval of information.

The need for standardized efficient distribution procedures is as important for disks and electronic transmissions as for paper copy. In fact, two kinds of distribution systems may need to be set up for the reasons discussed previously (see page 36, no. 2).

We do not believe that most Canadian courts are in a position to go much further at this time. They simply are not ready for electronic distribution. Before they can transmit judgments directly or construct an effective on-line system, they will have to do something about the way judgments are written, and that is likely to be a major project in most court systems.

As well, priorities should be weighed very carefully. There may be other areas, like court scheduling or case tracking, that may provide more significant benefits for the justice system. We are not in a position to consider what a strategic plan for any particular court might provide, but, in general, we believe that electronic distribution of judgments, in its more elaborate forms, should not be among the highest priority projects.

D. Some Specific Suggestions

While we believe that it is desirable to make some specific suggestions respecting the electronic distribution of judgments and respecting other parts of the overall system within which judgment distribution is located, we approached this task with some trepidation. We have emphasized that the problem is site-specific, and that the first step is the creation of a strategic plan; however, our study does not address a specific site, and there is no strategic plan to which we can refer.

In the face of this dilemma we have chosen to offer a number of concrete suggestions concerning actions that courts may wish to consider. The courts should weigh these in light of their own strategic plans and make their decisions with respect to implementation accordingly.

We should add that it is not necessary, or generally even desirable, to do all of these things at once. For example, improvements can be made in the way judgments are printed without building expensive networks first. Generally, it is better to take the simple steps first, for the reasons discussed earlier (see page 43, Section B). However, it is important to have the larger, long-term plan in mind from the beginning.

1. Writing, Printing, and Collecting Judgments

We recommend that:

4 *Judges who wish to use computers to write their judgments be provided with adequate computers and software, and ongoing training and support in their use.*

5 *Judges' secretaries use computers to produce judgments that are in machine-readable form, and that secretaries be provided with ongoing training and support.*

To begin at the beginning, it would probably make economic sense for courts to produce judgments in electronic form in the first place. Logically, this should come before worrying about what to do with judgments after they have been written. Thinking strategically, if the judgments have all been produced in the same way, the problems of distribution and dissemination are simplified. If each judge, or each judge's secretary, uses a different method, it is very difficult to process the judgments by computer for either printing or inclusion in a database. If different hardware or software has been used, the problems are even worse.

Whether judgments are distributed in paper or electronic form, the process for writing, printing, and collecting them should function as efficiently as possible. Several steps would clearly help.

Again, beginning at the beginning, judges should be encouraged to use computers and modern word processing programs when they write their judgments. Most organizations that produce large amounts of written material concluded long ago that the producers - those who write the documents - should have and use computers, and that they should be linked as directly as possible to the editorial and printing functions.

We are not arguing that all judges must become computer literate. Judges are busy people at the pinnacles of their careers, and many of them have never learned to type. Learning to type and to use computers might not be a cost-effective use of their time in all cases. However, many judges are interested in learning these new skills. They should be encouraged and should be given the resources that would allow them to do their job better.

Whether or not all judges choose to work on computer, their secretaries should certainly do so. They will require equipment, training, and technical support in order to do their jobs effectively.

We recommend that:

6 *Compatible equipment and software be used throughout each province's court system.*

7 *Standards be developed for the formatting of judgments within a province, so that the judgments can be processed for computer databases more efficiently.*

In order to distribute and disseminate judgments efficiently, it is essential that they meet some basic standards. Compatible hardware and software should be used, and there should be system-wide standards with respect to such matters as formatting, typeface, and style. If different equipment, software, and methods are used to write judgments, it is very difficult to design good printing and retrieval systems. One very simple example of the problems involves the manner in which a paragraph is indented. If some secretaries use the space bar to space off five spaces, others use the tab key, and others use a "hanging indent" paragraph, a program designed to print the judgments must provide for all three options. If one considers the wide variety of ways in which each task can be performed, it is easy to see that the programmer's job is extremely difficult when there are no standards.

We recommend that:

8 *Paragraph numbering be included in all written and transcribed oral judgments.*

9 *Some authoritative body (e.g., the Canadian Judicial Council) issue a statement supporting the acceptance by the courts of computer printouts of reasons for judgment and recommending a proper citation style for electronic versions.*

One of the reasons people prefer to rely on printed judgments is that there is no agreed method of citing material in an electronic version of the judgment. There are really two ways of dealing with this. Either the judge can use paragraph numbers, or the database operator can insert page markers that correspond with the original. We prefer the former. In good writing, a paragraph expresses one idea or one set of related ideas. If it were possible to cite judgments by paragraph number, citations would have much more precision. They could be used to refer readers more precisely to the relevant material. In the past it was probably difficult to include paragraph numbers in any document that had to be revised a number of times. Some word processing packages now handle that task automatically.

A related issue concerns the manner in which judgments that are contained in an electronic database should be cited. While this seems a bit beyond the scope of this report, we do note in passing that the Canadian Legal Information Centre (formerly the Canadian Law Information Council) has produced a set of standards for naming cases, as well as recommendations relating to the establishment of a unique numbering system for cases. Together, these two standards could provide a basis for citing unreported material. It should also be noted that the database operators themselves attach a document number or citation to each case. For example, QL Systems assigns an identifier to each case in its databases, stating the year and an acquisition number, so the tenth case added to the B.C.J. database in 1990 is cited by QL as "1990 B.C.J. No. 10." There is no reason why lawyers and courts should not use this as a citation. In reality it is no different than citing material in a printed source by year, volume, and page. It would be helpful if the courts were consistent in accepting printouts of electronic versions of reasons for judgment (see page 35, point f.).

We recommend that:

10 *Consideration be given to the appropriateness of linking electronically the judges' computers, their secretaries' computers, the printing facility, the registries, or any combination of these, in a courthouse or province.*

11 *Consideration be given to installing centralized printing facilities in a courthouse or province that are capable of collating, stapling, and addressing judgments automatically and of handling the volume the courts generate.*

12 *Consideration be given to developing a means of producing and designating official electronic versions of judgments.*

Judgments should be written and printed efficiently with recognition of volume, circumstances, and local needs. Once a judgment is prepared it should be possible to transmit it electronically over a network to the secretarial, editorial and support personnel who will prepare it for printing. First, it should be printed by the judge's secretary on a local printer, then checked and authorized by the judge. The court would need to determine a way for designating an electronic version as official (i.e., some substitute for the judge's signature and the registry stamp). The secretary should then be able to release the judgment directly, electronically, to the main printing facility. In a larger courthouse, the printing facility should include a high speed, high volume printer. Collation, stapling, and addressing should all be handled automatically.

The Supreme Courts of Canada and the United States offer useful models. In both courts the clerks, the secretaries, and some of the judges have computers. They are linked by a network, and once a judgment has been completed it is passed to editorial personnel electronically. The electronic version is edited, citations are inserted and checked, and printing codes are inserted. Paper copies are used during this process for verification and editing purposes. The electronic version of the judgment is used to produce camera-ready copy, which is printed for distribution. Disks can also be provided to database operators and publishers.

2. Rationalizing the Distribution List

We recommend that:

13 *Policy guidelines be set as to who is entitled to be on the distribution list and who is entitled to free copies of judgments, and that distribution lists be reviewed regularly to ensure that they do not contain people and agencies that do not fit within the guidelines.*

14 *Consideration be given to charging all subscribers, including those internal to the courts and government, the full cost (direct and indirect) of distributing paper copies of the judgments.*

The size of the distribution list is seen as a problem by most courts. In general, lists have grown in haphazard fashion rather than as the result of express guidelines. The composition of the list, and the fees charged, are matters that each court must address as part of the strategic planning process, taking into account policy considerations such as public access as well as practical considerations.

One way of dealing with the financial problems resulting from a large distribution list is to consider charging everyone on the list, including government departments. It would then be up to each individual, organization, or department to justify the expense and perhaps many would drop off.

There is a problem with this suggestion. Libraries are suffering under increasing financial constraints and burdens. They play a crucial part in the whole process by which judgments are made available to the legal profession and the public; therefore, one would hate to see them stop receiving judgments. If their costs are increased by charging for judgments, government should increase their grants to cover this increase.

We recommend that:

15 Consideration be given to developing some sort of current awareness service and making it available to judgment consumers for a fee.

Many people on the distribution list, both inside and outside the court system, seem to want the judgments simply as a means of keeping up to date. They probably do not read them all and in fact often are frustrated by receiving so much paper. A good current awareness service might reduce the size of the distribution list, meet the consumers' needs more effectively, and be offered on a cost-recovery or revenue-producing basis.

3. Fine-tuning the Collection and Distribution Process

We recommend that:

16 The procedures by which judgments are forwarded to QL and other recipients be reviewed to determine whether it is possible to get the judgments out more quickly and reliably.

17 Consideration be given to establishing an office with responsibility for judgment distribution.

One of the deficiencies of the existing system in the common law provinces is a delay of about three to four weeks between when most judgments are released and the time when they are available on-line. Sometimes longer delays are encountered.

Our research indicated that some fine-tuning of the procedures used by the courts to collect and forward the judgments to the database operators could reduce the delays somewhat. A few courts are in the process of developing effective systems of electronic transmission.

For those who are sending paper copies, some of the time is required to move the judgments physically from the courts to the database operators. Courts may collect judgments for a certain time period then send off a batch. In some situations there is a central collection and distribution point; in others each courthouse is responsible for its own distribution. Sometimes judgments get lost in the system within the courts and do not reach the database operator for some time or at all.

When a database operator receives paper copy, it requires some time to read the judgment into the database through optical character readers and to do any verification that is necessary.

Closer scrutiny and the development of standard distribution procedures by court officials would probably help a bit. Rees-Potter[6] suggested a central distribution office, which would certainly assist in standardizing procedures and providing controls. The only possible disadvantage is that it could result in further delays by introducing another level into an already slow process; however, as automation of the courts increases, the delays would be minimal. What is really crucial is that some person or office be given the responsibility and authority to set up an efficient system, to ensure that it operates efficiently, and to update the system periodically as automation of the courts increases.

Shipping more frequently would also speed things up a bit, but could be expensive relative to the amount of benefit it would produce.

In Quebec, it is to be hoped that the new system being designed will maximize the efficiency of distribution from the courts to SOQUIJ.

For our recommendations with respect to electronic distribution of judgments, see page 46, Section C.

4. Case Location Tools

We recommend that:

18 *Consideration be given to developing case locating or tracking tools that can be made available to intermediaries and the general public.*

19 *Consideration be given to providing public access to the court's information regarding status of cases and judgments, possibly through the vehicle of a public information office.*

One significant problem shared by law librarians and court administrators is the difficulty they experience in locating judgments when the people requesting them do not have complete information about the judgment - a frequent occurrence. As well, court administrators complain about the number of inquiries they receive as to when well-known cases are going to be decided. We have already noted that

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6 L.K. Rees-Potter, *Communicating Court Information: Towards a Canadian Court Records Handling System*, (Canadian Law Information Council, 1984).

one of the weaknesses of the current system is the lack of access to judgments during the period of time between the time when a judgment is released and its entry into existing databases.

These difficulties could be reduced substantially if there were some reliable means of tracking a case through the court system. What is needed is a database, much like the Alberta Case Locator, that can provide the user with the names of the parties to a case, the official registry numbers, where and when it was heard (or will be heard), and the current status of the case (i.e., undecided, when decided). If such a database were available, it would be easy to deal with requests of the kind outlined above. A simple search would provide the complete information needed to locate the judgment or to answer the question. This would be of value for internal use as well as for dealing with inquiries. Locating a particular case within the system would be further facilitated by use of a unique identifying number for each decision, as recommended by the Canadian Legal Information Centre (see page 48, no. 1).

It seems likely that a case tracking system like the one we have described would be a natural by-product of systems the courts will develop for their own use, in conjunction with a trial scheduling system. Making the information available to the public will provide substantial additional benefits, including a reduction of the time now spent by court personnel answering inquiries.

The task of developing such a database is not a simple one by any means. The number of actions that are started is quite large - about ten times the number that ultimately go to trial. The system should be designed to fit comfortably with whatever systems are planned or in place for court registries and for court scheduling.

Delivery of the service raises other questions. If it were delivered on-line, this would raise most of the difficult questions posed (see pages 39-41, points a. and b.) with respect to on-line access to recent judgments.

Each court should consider establishing a public information office. This office could maintain and operate the case tracking system. It could answer questions for people who are not technically set up to dial into any on-line services that the court may operate in the future. And it could provide copies of judgments on request, taking over the role of the court registry and, to some extent, the courthouse library in this regard. As well, it could provide the public with other, more general information about the courts.

5. Archiving Electronic Copies

We recommend that:

20 *Electronic versions of judgments be officially archived.*

In general, court administrators agree that the courts have two obligations with regard to judgments: to provide some degree of public access and to maintain public records. Public records generally are kept in the form of paper archives, and are often rather disorganized and difficult to access.

If judges and computers are producing judgments in electronic form and the computers are all linked through a centralized system, as seems likely in the near future, the result will be a centralized storehouse of judgments in electronic form. Thought should be given to establishing an electronic archive for these judgments. Not only might this assist the court in improving its current archiving system, but it will allow the court to prepare for opportunities that may occur in the future.

As the automation of the justice system and of legal education and legal publishing continues, it is probable that there will be an increasing demand for judgments in machine-readable form. For example, legal educators producing casebooks need to be able to reproduce judgments easily and efficiently, and they need a source for judgments that does not involve breaching someone else's copyright. Also, legal scholars may want a source of electronic copies of judgments for analytical purposes or for research they are doing on artificial intelligence or database design. An increasing number of computerized legal information systems (e.g., based on hypertext, databases, and expert systems) require a considerable body of case law that now often has to be input manually.

Starting to archive electronic versions of judgments now will facilitate the development of more effective legal information systems in the future. As well, it will provide security in case an existing database ceases operation for any reason.

We recommend that:

21 *Consideration be given to making historical collections of electronic versions of judgments available on some basis.*

Quite apart from the question of whether it makes sense to distribute current judgments electronically, there is the question of whether electronic copies of older judgments should be made more widely available. As stated above, we foresee an increasing demand from legal publishers, legal educators, legal researchers, and perhaps other consumers.

If an electronic archive is maintained, it would not be very difficult for courts to provide disks containing collections of past judgments. It would be necessary to be flexible and to experiment with the ways in which these might be made available. As a start it might be possible to simply offer disks containing a year's collection of judgments.

E. Summary

Twenty years from now, in 2010, if anyone happens to have an arcane enough interest in history to read this document, they will wonder why it was ever written. Everything will seem so obvious. The skill of dictation will have returned, but writers will write by talking to their computers. Screens will have improved greatly, and will be easier to read than paper. They will be large, and such matters as type size, font, and colour, will all be within the control of the reader. The writer will dictate, and simultaneously the words will appear on the screen. Something like a mouse or a speed ball, or perhaps a joy stick, will be used to control the cursor location, and a few buttons will be available to perform such functions as marking and deleting text. The keyboard may be gone entirely.

Judges and lawyers will use these systems as easily as everyone else, and lawyers will file their "documents" by sending them electronically directly to the court registry. Paper will be used, but only when that form is more convenient for the user (examples like riding on the bus come to mind). In such situations, the paper copy will be printed, used, and then recycled. In most circumstances it will be easier to rely on the electronic copy. Even airplanes will probably have computer consoles, with the most popular word processing software, built right into each business-class seat. Imaging technology will make it possible to "mark up" an electronic document just as easily as one can mark on paper today.

Like other writers, judges will write their judgments by talking to their computers, will view their work on large screens comfortably positioned for their desks and office layout, and will use the joy stick controller to make corrections as they go along. Aids like spellers, thesauri, and electronic tables of prior cases (with full citations) will make their jobs easier. They will be able to send documents electronically, merely by pushing a button, to their secretaries, clerks, or the court's own editorial staff for their input.

The final version of each judgment will be sent electronically to the court registry, where it will be filed, archived, and distributed electronically to litigants, publishers, database operators, and individual subscribers. It will all work a lot like today's newspapers, where stories are written on terminals, edited on terminals, and finally fed directly into the printing presses, but the system will reach beyond the walls of one institution and will include everyone who is involved in the judgment distribution and dissemination process - on a national, and probably international, scale.

Can it really be any other way? Nothing else makes sense in the long term. Communications technology, imaging technology, voice interfaces, and computer displays will all improve dramatically, if the past decade is any guide. Why would the courts and the legal community fail to take advantage of those developments? And why would it make any sense to continue to change the original work (by then it would surely be electronic) into paper for communications, filing, and

archiving purposes? Shifting back and forth between paper versions and electronic versions, as we do today, would impose additional cost and create opportunities for error.

The question posed by this report was whether courts should distribute or make available electronic copies of their judgments rather than printing paper copies and distributing them by traditional methods.

In the long term electronic copies of court judgments will be made available to those requesting them as part of the total, electronic system by which judgments are handled.

But the world today looks nothing like the world we have envisioned for 2010. Today's system is wholly oriented towards, and dependent on, paper. Attempting to move toward an electronic judgment distribution system first, before taking care of the way judgments are written, printed, and collected, is a little like attempting to move the cart down the street without the horse. We haven't simply got the cart before the horse - we've forgotten the horse.

In this report we have considered the situation faced by the courts today. They are just beginning to introduce technology into court processes. Many important court functions could be improved by technology. Scheduling, case tracking, and transcript production are but a few of these.

Judgment writing, printing, and collection should be high priority areas for the introduction of technology. Today judgments are written on a wide variety of equipment, and printing and collection procedures tend to be labour intensive, and therefore slow and expensive. These problems must be addressed before much more can be done in the area of judgment distribution.

Interestingly, one of the brightest spots of all is in the area of electronic dissemination of judgments. Due to the efforts of database operators, an effective system is already in place. For the most part they are taking the judgments in paper form, but are converting them to electronic form and making them available to users fairly quickly.

Improvements are possible. For example, it would cost very little to make disks available to intermediaries where suitable judgment production systems are in place, and this would benefit both intermediaries and their customers through cost reductions, more timely access, and greater accuracy. As well, better administrative control over judgment collection and distribution procedures would probably reduce delay and improve comprehensiveness. However, it is clear that the benefits gained from work in this area would be less than the benefits that should be expected from work in other areas. There already is a system for judgment distribution in place and, in combination with dissemination by intermediaries, it is

working reasonably well. The same cannot be said for judgment writing, printing, and collection, case scheduling, case tracking, or transcript production.

The key issue, however, has to do with how decisions about priorities and the introduction of technology should be made. What is tending to happen now is that different individuals, organizations, and courts are developing small systems to do one or another task, all without talking to each other very much or thinking about the priorities for the over-all system. This activity is taking place in a policy and planning vacuum. It is bound to produce a proliferation of incompatible systems.

Our most important recommendation is that each court develop a strategic plan for the introduction of technology. Without such a plan, any steps toward the greater use of technology are doomed to create as many problems as they solve. The development of such a plan is the first step any court should undertake. Other questions about the introduction of technology, such as the main question posed in this report, should be answered in the context of a strategic planning process.

In concluding, we would like to emphasize that what we have said about the need for a strategic plan at the local level should be said at the national level as well. It would be tragic if the approaches taken in different jurisdictions precluded the development of national legal information systems. As each court begins to develop its own strategic plan, it should keep in touch with and cooperate with the other courts across the country, in order to give Canada legal information systems that are useful and compatible.

VIII. APPENDICES

A. People Contacted

People Interviewed

Eric Appleby, President, Maritime Law Book Ltd., Fredericton, N.B.

Doug Arnold, Systems Consultant, Ministry of Attorney General, Victoria, B.C.

Judy Atkins, Librarian, McCarthy Tetrault, Vancouver, B.C.

Ann Beresford, Librarian, Ladner Downs, Vancouver, B.C.

Johanne A.C. Blenkin, Chief Librarian, Russell & DuMoulin, Vancouver, B.C.

Pam Clancy, Librarian, Campney & Murphy, Vancouver, B.C.

Greg Clarke, Systems Manager, Supreme Court of Canada, Ottawa, Ontario

Georgina Daniels, Senior Project Analyst, Methods, Procedures and Productivity, Court Services, Ministry of Attorney General, Vancouver, B.C.

John Davis, Law Librarian, University of Victoria, Victoria, B.C.

Virginia Day, Manager of Methods, Procedures and Productivity, Court Services, Ministry of Attorney General, Vancouver, B.C.

James R. Donovan, Director of Data Systems, Supreme Court of the United States, Washington, D.C.

Warren J. Dunlop, Registrar, Supreme Court of Ontario, Toronto, Ontario

Lisa Feld, Articling Student, Porter & Posluns, Toronto, Ontario

M. Anne Foster (then Vice-President, Publishing, Canada Law Book Inc., Aurora, Ontario)

Deborah Fry, Legal Information Services, Department of Justice (Government of Newfoundland and Labrador), St. John's, Newfoundland

Pierre Girard, Directeur, SOQUIJ, Montreal, Quebec

Joanne Gulliver, Librarian, McMillan Binch, Toronto, Ontario

Adrienne Herron, Vice-President, Marketing, QL Systems Ltd., Ottawa, Ontario

Shih-Sheng Hu, Chief Provincial Law Librarian, Edmonton, Alberta

Jennifer Jordan, Registrar, British Columbia Court of Appeal, Vancouver, B.C.

Kathy Kelso, Toronto, Ontario

Claude Langevin, Service des Systemes d'information, Ministere de la Justice (Gouvernement du Quebec), Quebec City, Quebec

Hugh Lawford, President, QL Systems Ltd., Kingston, Ontario

Lorraine Leitz, Technical Services Librarian, Russell & DuMoulin, Vancouver, B.C.

The Honourable Mr. Justice D.K. MacPherson, Chief Justice, Court of Queen's Bench, Regina, Saskatchewan

Lillian MacPherson, Law Librarian, J.A. Weir Memorial Law Library, University of Alberta, Edmonton, Alberta

Kirk Makin, Globe and Mail, Toronto, Ontario

Maureen McCormick, Executive Director, B.C. Courthouse Library Society, Vancouver, B.C.

Briand McInnes, Director, Central Services, Court Services, Alberta Attorney General, Edmonton, Alberta

Stephen Moate, Lawyer, Hicks, Morley, Hamilton, Stewart and Storie, Toronto, Ontario

Ann Morrison, Head, Public Services, Faculty of Law Library, University of Toronto, Toronto, Ontario

Catherine Parker, Ottawa, Ontario

Mona B. Pearce, Director, Legal Information Services, Department of Justice (Government of Newfoundland and Labrador), St. John's, Newfoundland

The Honourable Madam Justice Ellen Picard, Court of Queen's Bench of Alberta, Edmonton, Alberta

Mary Piggot, Manager, Search Law, Law Society of Upper Canada, Toronto, Ontario

The Honourable Mr. Justice K. Peter Richard, Supreme Court of Nova Scotia, Halifax, Nova Scotia

Ruth Rintoul, Editor in Chief, QL Systems Ltd., Halifax, Nova Scotia

Gary Rodrigues, Vice-President and Executive Director, Carswell Legal Publications, Agincourt, Ontario

Anne Roland, Registrar, Supreme Court of Canada, Ottawa, Ontario

Tony Sheridan, Assistant Deputy Minister, Ministry of Native Affairs, Victoria, B.C.

Eugene Spencer, Director, Systems Services, Ministry of Attorney General, Victoria, B.C.

Jim Stuart, Senior Project Analyst, Methods, Procedures and Productivity, Court Services, Ministry of Attorney General, Vancouver, B.C.

Rob Tweedie, Victoria, B.C.

William Wendt, Deputy Administrator, Judicial Information Services, Federal Court of Canada, Ottawa, Ontario

Vicki Whitmell, Chief Librarian, Osler Hoskins & Harcourt, Toronto, Ontario

Susan C. Zimmerman, Director of Research, Goodman & Goodman, Toronto, Ontario

Others Who Received a Copy of the Draft Report

Peter B. Bell, Assistant Secretary, Law Society of Upper Canada, Toronto, Ontario

B.T. Cadger, Registrar, Court of Appeal of Manitoba, Winnipeg, Manitoba

The Honourable D.H. Campbell, Chief Judge, County Court of British Columbia, Vancouver, B.C.

Jean A. Chilibeck, Systems Coordinator, Alberta Attorney General Systems and Information Services, Edmonton, Alberta

A.M. DeGiacinto, Registrar, Court of Queen's Bench, Fredericton, N.B.

Jennifer J. Edwards, Research Lawyer, Code Hunter, Calgary, Alberta

The Honourable W.A. Esson, Chief Justice, Supreme Court of British Columbia, Vancouver, B.C.

Martin Felsky, McCarthy Tetrault, Barristers and Solicitors, Toronto, Ontario

The Hon. Mr. Justice A. Derek Guthrie, Superior Court of Quebec, Montreal, Quebec

Stephen Hanson, Senior Director, Communications, Canadian Bar Association, Ottawa, Ontario

Gordon Henderson, Q.C., Gowling Strathy & Henderson, Ottawa, Ontario

David Hill, Coordinator of Computer Education, Continuing Legal Education Society of B.C., Vancouver, B.C.

Glen Howell, Chief Librarian, Great Library, Law Society of Upper Canada, Toronto, Ontario

D.S. Huff, Registrar, Court of Appeal of Alberta, Edmonton, Alberta

Robert Huggins, Info Globe, Globe and Mail, Toronto, Ontario

The Honourable I.B. Josephson, Chief Judge, Provincial Court of British Columbia, Vancouver, B.C.

S. Lycan, Registrar, Court of Appeal of Yukon, Whitehorse, Yukon

Jane MacFadgen, Executive Director, Law Foundation of British Columbia, Vancouver, B.C.

Ejan Mackaay, Professor, University of Montreal Faculty of Law, Montreal, Quebec

G.E. MacMillan, Prothonotary and Chief Judicial Officer, Supreme Court of P.E.I., Charlottetown, P.E.I.

The Hon. Mr. Justice T.D. Marshall, Executive Director, Canadian Judicial Centre, Ottawa, Ontario

The Honourable Allan McEachern, Chief Justice, British Columbia Court of Appeal, Vancouver, B.C.

M. McLaughlin, Registrar, Court of Appeal of Alberta, Calgary, Alberta

F.C. Newis, Registrar, Court of Appeal of Saskatchewan, Regina, Saskatchewan

Suzanne Paquet, Executive Director, SOQUIJ, Montreal, P.Q.

C. Paquette, Greffier des appels, Cour d'appel du Quebec, Montreal, Quebec

E. Ann Rae, Law Librarian, Faculty of Law Library, University of Toronto, Toronto, Ontario

Registrar, Court of Appeal of the Northwest Territories, Yellowknife, N.W.T.

Steve Rumsey, Assistant Deputy Minister, Court Services, Ministry of Attorney General, Victoria, B.C.

A.M. Smith, Q.C., Prothonotary, Supreme Court of Nova Scotia, Halifax, Nova Scotia

Krysia Strawczynski (then Assistant Deputy Minister, Support & Regulatory Services, Ministry of Attorney General, Victoria, B.C.)

Jane Taylor, Director, Library Services, Ministry of Attorney General, Victoria, B.C.

J. Tardif, Greffier des appels, Cour d'appel du Quebec, Palais de Justice, Quebec, Quebec

Jeannie Thomas, Executive Secretary, Canadian Judicial Council, Ottawa, Ontario

Henry J. Thorne, Deputy Registrar, Supreme Court, St. John's, Newfoundland

Mark E. Vale, Director, Plain Language Centre, Canadian Legal Information Centre, Toronto, Ontario

C.A. Vessey, Registrar, Appeal Division of P.E.I., Charlottetown, P.E.I.

Sherril Nixon Wadsworth, Librarian, McCarthy Tetrault, Montreal, Quebec

Cliff S. Watt, Chief Legislative Counsel, Ministry of Attorney General, Victoria, B.C.

B. Experiments with the Transfer of Judgments in Electronic Form

1. Federal Court of Canada

The Federal Court of Canada was eager to be involved in electronic distribution of judgments in view of its responsibility to provide public access to its decisions. At present, they are sending decisions to QL by electronic transmission and to the editor of the Federal Court Reports on diskette. The Federal Court is planning to transmit judgments electronically to Federal Court offices across the country, as soon as this is feasible.

2. Alberta

Discussions are underway with QL with respect to the possibility of electronic transmission.

3. British Columbia

B.C. plans to send judgments to QL in electronic form as soon as this is feasible.

4. New Brunswick

The Court of Appeal and six Queen's Bench centres ship diskettes plus paper copies to QL in Halifax. Two Queen's Bench centres use equipment that is not DOS-compatible and they continue to ship paper copies to QL in Kingston for scanning.

5. Newfoundland

The Court of Appeal uses Xerox memory writers. Disks are provided to QL by courier weekly, or, for important judgments, on the date of release. QL converts the disks.

The St. John's Trial Division and Unified Family Court use WordPerfect and send copies on disk and paper copies to QL in Halifax. The other centres send paper copies to QL in Kingston for scanning.

6. Nova Scotia

One Nova Scotia judge is having his secretary transmit his judgments to QL electronically through its electronic mail facility. WordPerfect files are converted to ASCII and uploaded to QL's mailbox; the secretary then telephones the Halifax QL office to advise them that she has sent something. QL finds the transmissions to be very clean, when checked against paper copy.

Most of the rest of the Nova Scotia judgments are produced using Xerox memory writers. They are supplied to QL on disk; QL converts the disk.

The Nova Scotia courts are now putting in Unix equipment. Three workstations have been purchased and this number will grow. Diskettes from the Unix system are converted into WordPerfect then sent with paper copies to QL in Halifax.

7. Prince Edward Island

Prince Edward Island was the first province to get involved in electronic transmission. The courts are transmitting judgments produced by a Wang system. One workstation has a modem, and the secretaries rotate transmission duties.

Transmission is through QL's electronic mail facility. QL has written a program to clean up the text they receive.

The courts also provide headnotes.

8. Quebec

See the discussion of Quebec on page 22, Section E, nos. 1 & 2.

9. Saskatchewan

The Court of Appeal tried sending judgments electronically to QL, but had transmission problems. They now send disks by courier once a week.

The Queen's Bench is introducing a new system and, when possible, will provide disks to QL.